Notes to 54:10A-5, 54:10A-5.39b, 54:4-12 et al
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2025 **CHAPTER:** 81

NJSA: Notes to 54:10A-5, 54:10A-5.39b, 54:4-12 et al Modifies certain requirements and award availability under film and digital media content production tax credit program.

BILL NO: S4618 (Substituted for A5827 (1R))

SPONSOR(S) Mukherji, Raj and others

DATE INTRODUCED: 6/19/2025

COMMITTEE: **ASSEMBLY:** --

SENATE: Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/30/2025

SENATE: 6/30/2025

DATE OF APPROVAL: 6/30/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S4618 Sca (1R) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

S4618

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes SBA 6/26/25 1R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A5827 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes ABU 6/27/25 1R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT:	**ASSEMBLY**:	Yes	Appropriations Budget
	SENATE:	No	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

LEGISLATOR STATEMENT: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Matthew Fazelpoor, 'Murphy signs $58.8B NJ budget with tax hikes, relief aid', *NJBIZ* (online), 1 Jul 2025‹https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1A1ADA14A0F8F6B8›

CL/MMcB

§§5,6
T & E and
Note to
C.54:10A-5,
C.54:10A-5.39b,
and
C.54:4-12
§§7,8
Note to
§§1-4

P.L. 2025, CHAPTER 81, ***approved June 30, 2025***
Senate, No. 4618 ***(First Reprint)***

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** <u>2049</u>, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production[1]**[**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SBA committee amendments adopted June 26, 2025.

privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1]**[**(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a privilege period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]**[1]

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a <u>taxpayer that is a</u> qualified **[**independent**]** post-production company<u>, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent</u>;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), **[**or**]** the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[1]**[, "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.]**[1]** , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A **[1]**credit issued to a**[1]** taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first **[1]**[use the credit in]**[1]** be taken by the tax certificate holder for**[1]** the tax period for which it was issued, **[1]**for**[1]** the tax period in which it was issued, or in any tax period **[1]**[after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser]**[1]** during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax

periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section[1] , without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[**2040**]** [1]**[**2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year**]**[1] 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year **[**2023**]** [1]**[**2026**]** 2023[1], in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional **[**$400,000,000**]** [1]**[**$250,000,000**]** $400,000,000[1] may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In

addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[1]**[2040]** 2050[1]**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total

amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156

(C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from

the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest

qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. <u>Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act,"</u>

N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the

case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not ⟦more⟧ less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has obtained a minimum [1]⟦six-episode⟧ four-episode[1] order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a [1]⟦New Jersey studio partner⟧[1] facility that is leased or owned by the New Jersey studio partner [1]and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner[1]. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in

the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section, including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.]

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the

181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least **1[**50**]** 51**1** percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production

company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,[1] the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]**[**production**]** post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]**[**may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility [1]and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey[1]. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production

company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. **[1]**A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility’s receipt of a temporary or final certificate of occupancy.**[1]** A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction **[**and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-

lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)**]** ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax **[**credit**]** credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of

250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film

or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective

date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of "qualified film production expenses" for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or

after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production

companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines **[**; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; **[**and**]**

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for

writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1][“Television series that relocated to New Jersey” means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.][1]

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

(cf: P.L.2024, c.33, s.2)

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax

otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production **[1]**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased, through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company,

30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1]**[**(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable year commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]**[1]

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent **[**for**]** of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic,

Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified **[**independent**]** post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross

income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., **[**or**]** the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[**and**]** **1[**, P.L.1945, c.162 (C.54:10A-1 et seq.)**]1** , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A **1**credit issued to a**1** taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first **1[**use the credit in**]** be taken by the tax certificate holder for**1** the tax period for which it was issued, **1**for**1** the tax period in which it was issued, or in any tax period **1[**after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser**]** during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the

tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section[1] , without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ [1]⟦2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year⟧[1] 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ⟦2023⟧ [1]⟦2026⟧ 2023[1], in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional ⟦$400,000,000⟧ [1]⟦$250,000,000⟧ $400,000,000[1] may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of

subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year [1]**[**2040**]** 2050[1], to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of

applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and

subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there

are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits

available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35

randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary,

deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a

production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum **[1]**[six-episode**]** four-episode**[1]** order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a **[1]**[New Jersey studio partner**]**[1] facility that is leased or owned by the New Jersey studio partner **[1]**and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner**[1]** . "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent

employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means **[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is

contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least ¹[50] 51¹ percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise

comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,[1] the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]**[**production**]** post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]**[**may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography

shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days [1]of the project[1] within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. [1]A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy.[1] A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to [P.L.2018, c.131] section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or

product during preproduction, production, and postproduction [and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)] ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1][two years] one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1][period may be extended at the discretion of the authority] the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease

production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to [P.L.2018, c.131] section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33,

"qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of "qualified film production expenses" for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script

written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio ⟦partners⟧ partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than ⟦two⟧ four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production

expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**[**; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount

provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1][“Television series that relocated to New Jersey” means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.]**[1]**

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2024, c.33, s.3)

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, **[1]**and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),**[1]** shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[**two**]** four **[1][**and one-half**]**[1] percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(1) the application is accompanied by a **[**diversity**]** plan outlining specific goals, which may include advertising and recruitment actions, for hiring **[**minority persons and women**]**

residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. **[**The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines specific goals that include hiring persons as performers in the film who are: (i) women or members of a minority group; (ii) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (iii) members of a bona fide labor union representing film and television performers.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents **[**who represent the diversity of the State population**]** of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

(cf: P.L.2024, c.33, s.4)

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section, and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the

provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; **[**or**]**

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount [1]for any original application approved by the authority on or after January 1, 2026[1] , provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner [1]**[**or New Jersey film-lease production company that enters into lease of at least three years to occupy a film-lease partner facility,**]**[1] or the holder of such certificate [1]originally issued to a New Jersey studio partner,[1] occurred at least one year prior to the date of application to the director and provided that the director [1]shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature

provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund[1].

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); [and]

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.).

(cf: P.L.2025, c.2, s.9)

5. (New section) [1][a.][1] A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, [1]and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),[1] shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162

(C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four [1]⟦and one-half⟧[1] percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

[1]⟦(1)⟧ a.[1] the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least [1]⟦two⟧ four[1] of the following criteria:

[1]⟦(a)⟧ (1)[1] the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

[1]⟦(b)⟧ (2)[1] the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer [1]⟦or⟧ ,[1] the film, [1]a leading actor or actress in the film,[1] or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

[1]⟦(c)⟧ (3)[1] the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

[1]⟦(d)⟧ (4)[1] the film is set, at least in part, in New Jersey, and the State is referenced in the film;

[1]⟦(e)⟧ (5)[1] support for a workforce development program established by [1]the taxpayer with[1] a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

[1]⟦(f)⟧ (6)[1] a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

[1]⟦(g)⟧ (7)[1] the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time

employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

[1][(h)]** (8)[1]** any alternative criteria as the authority shall provide pursuant to **[1]**[subsection c. of this section]** rules and regulations adopted by the authority[1]; and

[1][(2)]** b.[1]** the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

[1][b. Unless the taxpayer a film that is eligible for an additional tax credit for a television series that relocated to New Jersey, pursuant to paragraph (3) of subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) or paragraph (3) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), in addition to the credit provided pursuant to subsection a. of this section, a taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that the taxpayer's plan outlining specific goals to promote or invest in New Jersey includes a total of at least four of the criteria in paragraph (1) of subsection a. of this section.

c. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section, including, at a minimum, alternative promotional criteria, approved social media platforms, and requirements for a vendor's physical location.]**[1]**

[1]6. (New section) Notwithstanding any provision of P.L. , c. (pending before the Legislature as this bill) or any law, rule, or regulation to the contrary:

a. any additional tax credits allowed pursuant to the amendatory and supplemental provisions of P.L. , c. (pending before the Legislature as this bill) shall not exceed an aggregate additional amount totaling five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that this limitation shall only apply to the additional tax credit allowed for: hiring residents from certain areas in the State pursuant to section 4 of P.L.2018, c.56, as amended by

section 3 of P.L. , c. (pending before the Legislature as this bill); and the promotion of this State pursuant to section 5 of P.L. , c. (pending before the Legislature as this bill); and

b. the total amount of tax credits allowed under "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), as amended and supplemented, shall not exceed an aggregate additional amount totaling 45 percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049.[1]

[1]7. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the New Jersey Economic Development Authority may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the authority deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).[1]

[1][6.] 8.[1] This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

Modifies certain requirements and award availability under film and digital media content production tax credit program.

CHAPTER 81

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

C.54:10A-5.39b Credit against tax imposed, qualified film production expenses.

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner, 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses are incurred for post-production services, including visual effects services performed at a New Jersey film-lease partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A credit issued to a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time a business is required to maintain the project at a location in this State, subject to the carryforward

provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section, without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $400,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of

P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner, the authority may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application

otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2050 to apply against the tax imposed pursuant to section 5 of

P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the

authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute

qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has obtained a minimum four-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the

contrary, for a New Jersey studio partner, “film” shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports-themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a facility that is leased or owned by the New Jersey studio partner and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner, provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility, provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

“New Jersey film-lease post-production company” means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have

entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 51 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease post-production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner

facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A television series produced by a New Jersey film-lease production company that satisfies the three-year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility’s receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of

occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner, provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-

production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to

occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of “qualified film production expenses” for any New Jersey studio partner or New Jersey film-lease production company. For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” includes: the total script costs of any script written within New Jersey or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” shall include the total script costs of any script written within New Jersey or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer’s skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer’s room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; and payment in excess of $750,000 to a highly compensated individual for wages or salaries or

other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a

credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

C.54A:4-12b Tax credit, film expenses, certain.

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner, 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses are incurred for post-production services, including visual effects services performed at a New Jersey film-lease partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed by a qualified post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified post-production company, which may include qualified digital

media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been

granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A credit issued to a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section, without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $400,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners

for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any

reason outside the control of the New Jersey studio partner, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner, the authority may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other

than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out

company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or

purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum four-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, “film” shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports-themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a facility that is leased or owned by the New Jersey studio partner and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do

business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner, provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior

to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility, provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 51 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease post-production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one

year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A television series produced by a New Jersey film-lease production company that satisfies the three-year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner, provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by

virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related

to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of “qualified film production expenses” for any New Jersey studio partner or New Jersey film-lease production company. For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” includes: the total script costs of any script written within New Jersey or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” shall include the total script costs of any script written within New Jersey or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer’s skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer’s room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession,

or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, and subject to the provisions of section 6 of P.L.2025, c.81, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to four percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, 2049, provided that:

(1) the application is accompanied by a plan outlining specific goals, which may include advertising and recruitment actions, for hiring residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. (Deleted by amendment, P.L.2025, c.81)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

C.52:18A-263 Purchase of unused tax credits.

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of

this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent;

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount for any original application approved by the authority on or after January 1, 2026, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner or the holder of such certificate originally issued to a New Jersey studio partner, occurred at least one year prior to the date of application to the director and provided that the director shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund.

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b);

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.).

5. A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, and subject to the provisions of section 6 of P.L.2025, c.81, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. in an amount equal to four percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

a. the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least four of the following criteria:

(1) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

(2) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer, the film, a leading actor or actress in the film, or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

(3) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(4) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(5) support for a workforce development program established by the taxpayer with a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(6) a film industry recruiting program established by the taxpayer providing paid internships or entry-level employment opportunities in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(7) the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

(8) any alternative criteria as the authority shall provide pursuant to rules and regulations adopted by the authority; and

b. the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

6. Notwithstanding any provision of P.L.2025, c.81 or any law, rule, or regulation to the contrary:

a. any additional tax credits allowed pursuant to the amendatory and supplemental provisions of P.L.2025, c.81 shall not exceed an aggregate additional amount totaling five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025, but before July 1, 2049, provided that this limitation shall only apply to the additional tax credit allowed for: hiring residents from certain areas in the State pursuant to section 4 of P.L.2018, c.56, as amended by section 3 of P.L.2025, c.81 and the promotion of this State pursuant to section 5 of P.L.2025, c.81; and

b. the total amount of tax credits allowed under "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), as amended and supplemented, shall not exceed an aggregate additional amount totaling 45 percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049.

7. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the New Jersey Economic Development Authority may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the authority deems necessary to implement the provisions of P.L.2025, c.81, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

8. This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

Approved June 30, 2025.

SENATE, No. 4618

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 19, 2025

Sponsored by:
Senator RAJ MUKHERJI
District 32 (Hudson)
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Modifies certain requirements and award availability under film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a privilege period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified **[**independent**]** post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities

performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), **[**or**]** the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a

tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.), "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2026, and shall not

exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year **[**2023**]** 2026, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional **[**$400,000,000**]** $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the

tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, the authority **[**shall**]** may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall **[**terminate**]** be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56

(C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-

12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred

compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the

use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has

obtained a minimum six-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New

Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section, including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or

ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

<u>“New Jersey film-lease post-production company” means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility</u>

requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease post-production company's lease

with the New Jersey film-lease production facility, which may be extended at the discretion of the authority.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction **[**and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the

provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)**]** ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax **[**credit**]** credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit

Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed

schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity

agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company, "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**[**; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; **[**and**]**

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and

performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

"Television series that relocated to New Jersey" means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

(cf: P.L.2024, c.33, s.2)

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased, through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner or New Jersey film-lease production company

shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable year commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent **[**for**]** of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey

film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses ⟦of the taxpayer⟧ are incurred for post-production services, including visual effects services performed at a New Jersey film-lease ⟦production⟧ partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed by a qualified ⟦independent⟧ post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified ⟦independent⟧ post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et

seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., ⟦or⟧ the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to

claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[**and**]** , P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a

cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ⟦2023⟧ 2026, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional ⟦$400,000,000⟧ $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes

relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege

periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods

commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to

agreed-upon procedures prescribed by the authority and the director, no later than [two] four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included

in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a

production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum six-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, “film” shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or

other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition

of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which may be extended at the discretion of the authority.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a

designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction [and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)] ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the

date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production

costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company, "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**[**;

and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the

State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

“Television series that relocated to New Jersey” means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2024, c.33, s.3)

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[**two**]** four and one-half percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(1) the application is accompanied by a **[**diversity**]** plan outlining specific goals, which may include advertising and recruitment actions, for hiring **[**minority persons and women**]** residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. [The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines specific goals that include hiring persons as performers in the film who are: (i) women or members of a minority group; (ii) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (iii) members of a bona fide labor union representing film and television performers.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents [who represent the diversity of the State population] of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

(cf: P.L.2024, c.33, s.4)

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section, and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and

further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; **[**or**]**

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner or New Jersey film-lease production company that enters into lease of at least three years to occupy a film-lease partner facility, or the holder of such certificate occurred at least one year prior to the date of application to the director.

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); **[**and**]**

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.).

(cf: P.L.2025, c.2, s.9)

5. (New section) a. A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

(1) the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least two of the following criteria:

(a) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

(b) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer or the film, or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

(c) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(d) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(e) support for a workforce development program established by a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(f) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities

in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(g) the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

(h) any alternative criteria as the authority shall provide pursuant to subsection c. of this section; and

(2) the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

b. Unless the taxpayer a film that is eligible for an additional tax credit for a television series that relocated to New Jersey, pursuant to paragraph (3) of subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) or paragraph (3) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), in addition to the credit provided pursuant to subsection a. of this section, a taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that the taxpayer's plan outlining specific goals to promote or invest in New Jersey includes a total of at least four of the criteria in paragraph (1) of subsection a. of this section.

c. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section, including, at a minimum, alternative promotional criteria, approved social media platforms, and requirements for a vendor's physical location.

6. This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

STATEMENT

This bill modifies certain provisions of the film and digital media content production tax credit program (program) administered by the New Jersey Economic Development Authority. Among other changes, the bill extends the program's availability until July 2049, ten years longer than it is available under current law.

Increased Tax Credit Awards

This bill increases the amount of tax credits that may be awarded to a New Jersey studio partner under the program, from 35 percent to 40 percent of the taxpayer's qualified film production expenses during a tax period, when the expenses are incurred for services performed and tangible personal property purchased for use at a sound stage or other location within the State and within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

Incentive to Relocate Television Series to New Jersey

This bill provides that a New Jersey studio partner or New Jersey film-lease production company is eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey. The bill defines "television series that relocated to New Jersey" to mean a scripted television series of at least six episodes, with an average production budget of $2.5 million per episode, and for which all prior seasons of the series were filmed outside New Jersey.

New Jersey Film-Lease Post-Production Company

The bill defines a "New Jersey film-lease post-production company" to mean a taxpayer, including any taxpayer that is a member of combined group or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies certain criteria set forth in the bill.

If a New Jersey film-lease partner facility has not received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company is required to have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of gross rentable space. For

purposes of satisfying certain provisions in the bill, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

Qualified Post-Production Company

The bill replaces the definition of "independent post-production company" with a definition of "qualified post-production company" and replaces the former term with the latter throughout the bill. Under the bill, "qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy certain requirements under the bill.

Under the program, a taxpayer's expenses for visual effects services performed by a qualified post-production company may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent.

Application and Carry Forward of Credit

The bill provides that a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

Maximum Credit Availability

Under current law, in fiscal year 2024 and in each fiscal year thereafter until the conclusion of the program, the cumulative total awards are limited to $150 million for New Jersey studio partners. However, the authority may, in its discretion, award an additional $400 million to New Jersey studio partners.

This bill amends current law so that, beginning in fiscal year 2026, the maximum cumulative total awards is increased to $300 million for New Jersey studio partners. In addition, the bill decreases the additional discretionary awards to $250 million for New Jersey studio partners beginning in fiscal year 2026.

Recapture of Tax Credits

Under current law, the approval of tax credits for New Jersey studio partners and New Jersey film-lease production companies is

subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, the recapture of tax credits. The bill provides that the recapture of tax credits may only apply to the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate.

Current law also provides that if a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period, the authority is required to recapture certain portions of the tax credit. This bill instead authorizes the authority to recapture certain portions of the tax credit in these instances. However, the bill also provides an exception to this recapture provision in any circumstance in which the New Jersey studio partner fails to occupy the production facility for any reason outside the control of the New Jersey studio partner. The bill includes similar exceptions for failure to occupy the required space for a New Jersey film-lease production or New Jersey film-lease post-production company.

Deferred Compensation

Under current law, a New Jersey studio partner that makes certain deferred compensation payments is permitted to file a supplemental report no later than two years after the date on which the production concludes. This bill modifies current law to permit the submission of a supplemental report no later than four years after the date on which the production concludes.

Additionally, the bill permits a New Jersey studio partner to include deferred compensation payments made directly to a bona fide labor union, including those payments for which tax was not withheld under the gross income tax, within qualified film production expenses, provided that the payments otherwise satisfy the requirements of the program.

Current law permits a New Jersey studio partner that incurs $25 million or more in qualified film production expenses in the State to include within "qualified film production expenses," in excess of amounts paid to highly compensated individuals, up to $72 million of certain wages or salaries. This bill additionally permits a New Jersey studio partner that incurs $125 million or more in qualified film production expenses in the State for the production of a feature film to include within "qualified film production expenses," in excess of the amounts paid to highly compensated individuals, amounts paid for scripts, and amounts paid or incurred for deferred compensation, to include up to $72 million of certain wages and salaries.

Expansion of Transferred Tax Credit Applicability

Under current law, tax credits awarded under the program may be applied against a taxpayer's liability under the gross income tax or

corporation business tax. In addition, this bill authorizes the application of transferred credits against a taxpayer's liability for an insurance premium tax.

Credit for Diversity Plan

Under current law, a taxpayer who is eligible for tax credits under the program may receive an additional credit in an amount equal to two percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a tax period if: (1) the application is accompanied by a diversity plan outlining specific goals, which may include advertising and recruitment actions, for hiring minority persons and women; (2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and (3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

Current law provides that a tax credit for four percent of qualified film production expenses may be available to a taxpayer, rather than two percent, if the diversity plan includes specific goals that include hiring persons as performers in the film who are: (1) women or members of a minority group; (2) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (3) members of a bona fide labor union representing film and television performers.

This bill removes the additional requirements necessary for a taxpayer to receive a four percent tax credit, rather than two percent, and increases the bonus credit for all eligible applicants. Under the bill, a taxpayer may earn a credit equal to four and one-half percent of qualified film production expenses for a diversity plan meeting the same criteria required for a credit equal to four percent of digital media content production expenses.

In addition, this bill requires, instead of a diversity plan for hiring minority persons, and women, that an application for this additional credit be accompanied by a plan outlining specific goals, which may include advertising and recruitment actions, for hiring residents of an economically disadvantaged area in the State, a distressed municipality, or land owned by the federal government on or before December 31, 2005.

New Jersey Promotion and Support Credit

In addition to the amount of tax credits otherwise allowed under the program, the bill allows an additional promotional tax credit for certain film productions in an amount equal to four and one-half percent of a taxpayer's qualified film production expenses or qualified digital media content production expenses under certain conditions. Specifically, a New Jersey studio partner or New Jersey film lease production company may qualify for this additional credit by submitting, alongside an application to the authority and the

Director of the Division of Taxation in the Department of the Treasury (director), a plan outlining specific goals to promote or invest in New Jersey. Under the bill, a taxpayer is required to include at least two promotional criteria in the plan, and the authority and director are required to verify that the taxpayer has met the goals outlined in its plan.

Specifically, a taxpayer is required to satisfy at least two of the following criteria to qualify for the additional promotional credit:

(1) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority;

(2) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State;

(3) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(4) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(5) support for a workforce development program established by a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(6) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for New Jersey residents of an economically disadvantaged New Jersey area, a distressed municipality, or land owned by the federal government on or before December 31, 2005;

(7) the taxpayer engages at least five vendors authorized to do business in New Jersey, each of which employs at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality, or on land owned by the federal government on or before December 31, 2005; and

(8) any alternative criteria as the authority may provide.

However, unless a taxpayer is eligible for additional credit under the bill for a television series that relocated to New Jersey, the additional promotional credit allowed under the bill may be increased to nine percent, provided that at least four of the above criteria are met.

Modification of Definitions

This bill amends the definition of "commitment period" for New Jersey studio partners under the program to be the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following the issuance of a temporary

certificate of occupancy or commencement of a lease term, as appropriate. Under current law, the commitment period expires 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term.

The bill also amends the definition of "eligibility period," in the case of a taxpayer leasing a production facility, to mean the period beginning at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years. Under current law, the term is limited to a maximum of 10 years.

The bill includes within the definition of "film," for a New Jersey studio partner, an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner.

The bill amends the definition of "highly compensated individual" to remove a distinction under current law that, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. Instead, for any taxpayer, the term means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production.

The bill amends the definition of "New Jersey film-lease production company," in relevant part, to mean a taxpayer, including any taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, which taxpayer meets additional requirements. Under current law, the term includes a taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and material operation role in the production, among additional requirements.

The bill further amends the definition of a "New Jersey film-lease production company" to include any other member of a taxpayer's combined group, any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial

audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred. Under current law, this term includes an unrelated entity engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976."

The bill modifies the definition of "qualified film production expenses," as it applies to New Jersey studio partners and New Jersey film-lease production companies, to include: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Under current law, script costs are not included in qualified film production expenses. A New Jersey studio partner or New Jersey film-lease production company is permitted, under the bill, to include script costs, including the cost of script purchase.

State Purchase of Tax Credits

Under current law, the director is permitted to purchase unused tax credits awarded under various economic development programs established under the "New Jersey Economic Recovery Act of 2020," including the Aspire Program and the Cultural Arts Incentives Program.

Under the bill, the director is required to purchase unused tax credits and tax credit transfer certificates awarded under the Aspire Program and the Cultural Arts Incentives Program in an amount equal to 85 percent of the value of the tax credit, provided that certain conditions are met. The bill also requires that the director purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program in an amount equal to 95 percent of the value of the tax credit, provided that certain conditions are met. In each case, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year prior to the date of application to the director.

[First Reprint]

SENATE, No. 4618

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 19, 2025

Sponsored by:
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District 32 (Hudson)
Senator VIN GOPAL
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District 11 (Monmouth)
Assemblywoman MARGIE DONLON, M.D.
District 11 (Monmouth)

Co-Sponsored by:
Senator McKnight

SYNOPSIS

Modifies certain requirements and award availability under film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2025, with amendments.

(Sponsorship Updated As Of: 6/30/2025)

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production[1]**[**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SBA committee amendments adopted June 26, 2025.

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1] **[**(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a privilege period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]** [1]

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified **[**independent**]** post-production

company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), **[**or**]** the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement

waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[1]**[, "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.]**[1]** , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A **[1]**credit issued to a**[1]** taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first **[1]**[use the credit in] be taken by the tax certificate holder for**[1]** the tax period for which it was issued, **[1]**for**[1]** the tax period in which it was issued, or in any tax period **[1]**[after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser] during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section**[1]** , without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year [2040] 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945,

c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[**2040**]** **1[**2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year**]1** 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year **[**2023**]** **1[**2026**]** 2023**1**, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional **[**$400,000,000**]** **1[**$250,000,000**]** $400,000,000**1** may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **1[**2040**]** 2050**1**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act,"

N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner,

[1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or

transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56

(C.54A:4-12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** <u>four</u> years after the date on which the

production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of

occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily

for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has obtained a minimum [1]**[**six-episode**]** four-episode[1] order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a [1]**[**New Jersey studio partner**]**[1] facility that is leased or owned by the New Jersey studio partner [1]and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner[1]. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section, including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or

other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or

portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least **1[**50**]** 51**1** percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, **1**subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,**1** the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New

Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]⟦production⟧ post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]⟦two years⟧ one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]⟦may be extended at the discretion of the authority⟧ the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility [1]and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey[1]. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New

Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. [1]A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy.[1] A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction **[**and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)**]** ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside

the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1][two years] one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1][period may be extended at the discretion of the authority] the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-

lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified

film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of "qualified film production expenses" for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice

program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines **[**; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount

provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; **[**and**]**

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in

post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1]**[**"Television series that relocated to New Jersey" means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.**]**[1]

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

(cf: P.L.2024, c.33, s.2)

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film

production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production [1]**[**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased, through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1]**[**(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable year commencing on

or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]**[1]

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent **[**for**]** of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified **[**independent**]** post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken

together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., ⟦or⟧ the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been

granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[**and**]** **1[**, P.L.1945, c.162 (C.54:10A-1 et seq.)**]**1 , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A 1credit issued to a1 taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first 1**[**use the credit in**]** be taken by the tax certificate holder for1 the tax period for which it was issued, 1for1 the tax period in which it was issued, or in any tax period 1**[**after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser**]** during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section1 , without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]**

2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[**2040**]** **1[**2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year**]1** 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year **[**2023**]** **1[**2026**]** 2023**1**, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional **[**$400,000,000**]** **1[**$250,000,000**]** $400,000,000**1** may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **1[**2040**]** 2050**1**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax

imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio

partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority [shall] may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall [terminate] be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal

year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work

or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than [two] four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items,

or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. <u>Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.</u>

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and ⟦expiring⟧ continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not ⟦more⟧ less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural

venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum [1]**[**six-episode**]** four-episode[1] order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a [1]**[**New Jersey studio partner**]**[1] facility that is leased or owned by the New Jersey studio partner [1]and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner[1] . "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means **[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in

excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of

specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least [1]**[**50**]** 51[1] percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,[1] the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been

given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]⟦production⟧ post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]⟦two years⟧ one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]⟦may be extended at the discretion of the authority⟧ the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days [1]of the project[1] within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production

company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. [1]A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy.[1] A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction ⟦and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)⟧ ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the

control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax **[**credit**]** credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film

production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of "qualified film production expenses" for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in

this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio [partners] partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than [two] four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; [for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,] and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines[; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines], except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and

performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1]**[**"Television series that relocated to New Jersey" means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.**]**[1]

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2024, c.33, s.3)

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, [1]and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),[1] shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[**two**]** four [1]**[**and one-half**]**[1] percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(1) the application is accompanied by a **[**diversity**]** plan outlining specific goals, which may include advertising and recruitment actions, for hiring **[**minority persons and women**]** residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. **[**The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines

specific goals that include hiring persons as performers in the film who are: (i) women or members of a minority group; (ii) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (iii) members of a bona fide labor union representing film and television performers.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents **[**who represent the diversity of the State population**]** of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

(cf: P.L.2024, c.33, s.4)

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section, and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the

developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; [or]

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount [1]for any original application approved by the authority on or after January 1, 2026[1] , provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner [1][or New Jersey film-lease production company that enters into lease of at least three years to occupy a film-lease partner facility,][1] or the holder of such certificate [1]originally issued to a New Jersey studio partner,[1] occurred at least one year prior to the date of application to the director and provided that the director [1]shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund[1].

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); **[**and**]**

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.)<u>; and</u>

<u>(14) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.)</u>.

(cf: P.L.2025, c.2, s.9)

5. (New section) **[1]**[a.]**[1]** A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, **[1]**<u>and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),</u>**[1]** shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. in an amount equal to four **[1]**[and one-half]**[1]** percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

[1][(1)] <u>a.</u>**[1]** the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least **[1]**[two] <u>four</u>**[1]** of the following criteria:

[1][(a)] <u>(1)</u>**[1]** the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film,

with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

[1]**[**(b)**]** (2)[1] the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer [1]**[**or**]** ,[1] the film, [1]a leading actor or actress in the film,[1] or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

[1]**[**(c)**]** (3)[1] the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

[1]**[**(d)**]** (4)[1] the film is set, at least in part, in New Jersey, and the State is referenced in the film;

[1]**[**(e)**]** (5)[1] support for a workforce development program established by [1]the taxpayer with[1] a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

[1]**[**(f)**]** (6)[1] a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

[1]**[**(g)**]** (7)[1] the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

[1]**[**(h)**]** (8)[1] any alternative criteria as the authority shall provide pursuant to [1]**[**subsection c. of this section**]** rules and regulations adopted by the authority[1]; and

[1]**[**(2)**]** b.[1] the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

[1][b. Unless the taxpayer a film that is eligible for an additional tax credit for a television series that relocated to New Jersey, pursuant to paragraph (3) of subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) or paragraph (3) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), in addition to the credit provided pursuant to subsection a. of this section, a taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that the taxpayer's plan outlining specific goals to promote or invest in New Jersey includes a total of at least four of the criteria in paragraph (1) of subsection a. of this section.

c. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section, including, at a minimum, alternative promotional criteria, approved social media platforms, and requirements for a vendor's physical location.][1]

[1]6. (New section) Notwithstanding any provision of P.L. , c. (pending before the Legislature as this bill) or any law, rule, or regulation to the contrary:

a. any additional tax credits allowed pursuant to the amendatory and supplemental provisions of P.L. , c. (pending before the Legislature as this bill) shall not exceed an aggregate additional amount totaling five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that this limitation shall only apply to the additional tax credit allowed for: hiring residents from certain areas in the State pursuant to section 4 of P.L.2018, c.56, as amended by section 3 of P.L. , c. (pending before the Legislature as this bill); and the promotion of this State pursuant to section 5 of P.L. , c. (pending before the Legislature as this bill); and

b. the total amount of tax credits allowed under "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), as amended and supplemented, shall not exceed an aggregate additional amount totaling 45 percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049.[1]

[1]7. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the New Jersey Economic Development Authority may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the authority deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).[1]

[1][6.] 8.[1] This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4618

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 4618.

As amended and reported, this bill modifies certain provisions of the film and digital media content production tax credit program (program) administered by the New Jersey Economic Development Authority. Among other changes, the bill extends the program's availability until July 2049, ten years longer than it is available under current law.

Increased Tax Credit Awards

This bill increases the amount of tax credits that may be awarded to a New Jersey studio partner under the program, from 35 percent to 40 percent of the taxpayer's qualified film production expenses during a tax period, when the expenses are incurred for services performed and tangible personal property purchased for use at a sound stage or other location within the State and within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

Under the bill, a taxpayer may also qualify for additional tax credits, not to exceed five percent of the taxpayer's qualified film production expenses or qualified digital media content production expenses. According to the conditions in the bill, additional tax credits may be allowed for hiring residents from certain areas in the State and for the promotion of this State. The bill limits the total amount of tax credits allowed under the program to 45 percent of the qualified film production expenses or qualified digital media content production expenses.

Reality Show Total Film Production Expenses

This bill removes a requirement under current law that, for a reality show: (1) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey; and (2) the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through

vendors authorized to do business in New Jersey exceed $1,000,000 per production. Instead, a reality show is required to meet either requirement, as other films are required to under current law.

New Jersey Film-Lease Post-Production Company

The bill defines a "New Jersey film-lease post-production company" to mean a taxpayer, including any taxpayer that is a member of combined group or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies certain criteria set forth in the bill.

If a New Jersey film-lease partner facility has not received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company is required to have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of gross rentable space. For purposes of satisfying certain provisions in the bill, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 51 percent.

Qualified Post-Production Company

The bill replaces the definition of "independent post-production company" with a definition of "qualified post-production company" and replaces the former term with the latter throughout the bill. Under the bill, "qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy certain requirements under the bill.

Under the program, a taxpayer's expenses for visual effects services performed by a qualified post-production company may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent.

Application and Carry Forward of Credit

The bill provides that a credit issued to a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first be taken by the tax certificate holder for1 the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time a business is required to maintain the project at a location in this State, subject to the bill's carryforward provisions. Under the bill, the tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the bill's carryforward provisions. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, subject to the provisions in the bill, without the need to amend the return for the year for which the credit was issued.

Remaining Credit Availability

This bill adds a provision to current law, requiring that if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies, the authority certify the amount of remaining tax credits available for approval in that fiscal year. The bill requires that up to $100 million of unused tax credits from a prior fiscal year are to be made available to a New Jersey studio partner under certain circumstances. If the certified amount is less than $100 million, the authority is to approve the remainder, as available, from the unused Aspire Program and Emerge Program credits already available under current law. If there are insufficient funds, the authority is to approve the remainder instead from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.

Recapture of Tax Credits

Under current law, the approval of tax credits for New Jersey studio partners and New Jersey film-lease production companies is subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, the recapture of tax credits. The bill provides that the recapture of tax credits may only apply to the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate.

Current law also provides that if a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period, the authority is required to recapture certain portions of the tax credit. This bill instead

authorizes the authority to recapture certain portions of the tax credit in these instances. However, the bill also provides an exception to this recapture provision in any circumstance in which the New Jersey studio partner fails to occupy the production facility for any reason outside the control of the New Jersey studio partner. The bill includes similar exceptions for failure to occupy the required space for a New Jersey film-lease production or New Jersey film-lease post-production company.

Deferred Compensation

Under current law, a New Jersey studio partner that makes certain deferred compensation payments is permitted to file a supplemental report no later than two years after the date on which the production concludes. This bill modifies current law to permit the submission of a supplemental report no later than four years after the date on which the production concludes.

Additionally, the bill permits a New Jersey studio partner to include deferred compensation payments made directly to a bona fide labor union, including those payments for which tax was not withheld under the gross income tax, within qualified film production expenses, provided that the payments otherwise satisfy the requirements of the program.

Current law permits a New Jersey studio partner that incurs $25 million or more in qualified film production expenses in the State to include within "qualified film production expenses," in excess of amounts paid to highly compensated individuals, up to $72 million of certain wages or salaries. This bill additionally permits a New Jersey studio partner that incurs $125 million or more in qualified film production expenses in the State for the production of a feature film to include within "qualified film production expenses," in excess of the amounts paid to highly compensated individuals, amounts paid for scripts, and amounts paid or incurred for deferred compensation, to include up to $72 million of certain wages and salaries.

Expansion of Transferred Tax Credit Applicability

Under current law, tax credits awarded under the program may be applied against a taxpayer's liability under the gross income tax or corporation business tax. In addition, this bill authorizes the application of transferred credits against a taxpayer's liability for an insurance premium tax.

Credit for Diversity Plan

Under current law, a taxpayer who is eligible for tax credits under the program may receive an additional credit in an amount equal to two percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a tax period if: (1) the application is accompanied by a

diversity plan outlining specific goals, which may include advertising and recruitment actions, for hiring minority persons and women; (2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and (3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

Current law provides that a tax credit for four percent of qualified film production expenses may be available to a taxpayer, rather than two percent, if the diversity plan includes specific goals that include hiring persons as performers in the film who are: (1) women or members of a minority group; (2) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (3) members of a bona fide labor union representing film and television performers.

This bill removes the additional requirements necessary for a taxpayer to receive a four percent tax credit, rather than two percent, and increases the bonus credit for all eligible applicants. Under the bill, a taxpayer may earn a credit equal to four percent of qualified film production expenses for a diversity plan meeting the same criteria required for a credit equal to four percent of digital media content production expenses.

In addition, this bill requires, instead of a diversity plan for hiring minority persons and women, that an application for this additional credit be accompanied by a plan outlining specific goals, which may include advertising and recruitment actions, for hiring residents of an economically disadvantaged area in the State, a distressed municipality, or land owned by the federal government on or before December 31, 2005.

New Jersey Promotion and Support Credit

In addition to the amount of tax credits otherwise allowed under the program, the bill allows an additional promotional tax credit for certain film productions in an amount equal to four percent of a taxpayer's qualified film production expenses or qualified digital media content production expenses under certain conditions. Specifically, a New Jersey studio partner or New Jersey film lease production company may qualify for this additional credit by submitting, alongside an application to the authority and the Director of the Division of Taxation in the Department of the Treasury (director), a plan outlining specific goals to promote or invest in New Jersey. Under the bill, a taxpayer is required to include at least two promotional criteria in the plan, and the authority and director are required to verify that the taxpayer has met the goals outlined in its plan.

Specifically, a taxpayer is required to satisfy at least four of the following criteria to qualify for the additional promotional credit:

(1) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority;

(2) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State;

(3) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(4) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(5) support for a workforce development program established by the taxpayer with a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(6) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for New Jersey residents of an economically disadvantaged New Jersey area, a distressed municipality, or land owned by the federal government on or before December 31, 2005;

(7) the taxpayer engages at least five vendors authorized to do business in New Jersey, each of which employs at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality, or on land owned by the federal government on or before December 31, 2005; and

(8) any alternative criteria as the authority may provide.

Modification of Definitions

This bill amends the definition of "commitment period" for New Jersey studio partners under the program to be the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term, as appropriate. Under current law, the commitment period expires 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term.

The bill also amends the definition of "eligibility period," in the case of a taxpayer leasing a production facility, to mean the period beginning at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years. Under current law, the term is limited to a maximum of 10 years.

The bill includes within the definition of "film," for a New Jersey studio partner, an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. The bill also amends this definition so that a reality show that has obtained a minimum four-episode, rather than six-episode, order and otherwise meets the definition's requirements may be included in the definition of "film."

The bill amends the definition of "highly compensated individual" to remove a distinction under current law that, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. Instead, for any taxpayer, the term means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production.

The bill amends the definition of "New Jersey film-lease production company," in relevant part, to mean a taxpayer, including any taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, which taxpayer meets additional requirements. Under current law, the term includes a taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and material operation role in the production, among additional requirements.

The bill further amends the definition of a "New Jersey film-lease production company" to include any other member of a taxpayer's combined group, any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred. Under current law, this term includes an unrelated entity engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to

perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976."

The bill amends the definition of "qualified film production expenses" to include, for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, in a percentage proportional to the percentage or principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. These expenses are not permitted to exceed seven and one-half percent of "qualified film production expenses."

State Purchase of Tax Credits

Under current law, the director is permitted to purchase unused tax credits awarded under various economic development programs established under the "New Jersey Economic Recovery Act of 2020," including the Aspire Program and the Cultural Arts Incentives Program.

Under the bill, the director is required to purchase unused tax credits and tax credit transfer certificates awarded under the Aspire Program and the Cultural Arts Incentives Program in an amount equal to 85 percent of the value of the tax credit, provided that certain conditions are met. The bill also requires that the director purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program in an amount equal to 95 percent of the value of the tax credit, provided that certain conditions are met. In each case, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year prior to the date of application to the director.

Specifically, the bill requires the director to purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program valued at no more than a cumulative amount of $80 million in State fiscal year 2026, $160 million in State fiscal year 2027, $240 million in State fiscal year 2028, and $200 million in each State fiscal year thereafter, subject to certain conditions.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove a requirement under current law that, for a reality show: (a) at least 60 percent of the total film production expenses of the

taxpayer, exclusive of post-production costs, are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey; and (b) the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production. Instead, a reality show is required to meet only one of these requirements, as other films are required to under current law;

(2) remove a provision in the bill that, as introduced, would have created an additional incentive under the program for a television series that relocated to New Jersey;

(3) revise the additional tax credits available under the bill to be four percent, instead of four and one-half percent, for hiring residents from certain areas in the State and for promotion of this State. The amendments limit the aggregate additional amount of these additional tax credits to a total of five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period. The amendments limit the total amount of tax credits permitted to a taxpayer under the program to 45 percent of the qualified film production expenses or qualified digital media content production expenses;

(4) clarify language concerning the ability of a taxpayer to use and carry forward tax credits awarded under the program;

(5) remove language from the bill that would have amended current law to adjust certain maximum cumulative total awards and additional discretionary awards under the program;

(6) clarify that provisions of the bill prohibiting recapture of tax credits for the failure to occupy the production facility for any reason outside the control of an entity are 1subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the entity;

(7) require that, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies, the authority certify the amount of remaining tax credits available for approval in that fiscal year. The amendments require that up to $100 million of unused tax credits from a prior fiscal year are to be made available to a New Jersey studio partner under certain circumstances. If the certified amount is less than $100 million, the authority is to approve the remainder, as available, from the unused Aspire Program and Emerge Program credits already available under current law. If there are insufficient funds, the authority is to approve the remainder instead from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies;

(8) amend the definition of "film" to provide that a reality show that has obtained a minimum four-episode order form and otherwise meets

the requirements of the bill may qualify as a "film." Current law requires a six-episode order form;

(9) amend the definition of "qualified film production expenses" to include, for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, in a percentage proportional to the percentage or principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. These expenses are not permitted to exceed seven and one-half percent of "qualified film production expenses";

(10) revise a provision in the bill that prohibits the authority from recapturing any tax credits within two years of the date of certain entities' lease, provided that certain conditions are met, to instead prohibit recapture within one year of that date and to permit the authority to extend that period for one additional year under the conditions outlined in the bill;

(11) add a provision to current law that a television series produced by a New Jersey film-lease company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy remains eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy;

(12) clarify that, among the criteria in the bill for additional tax credits for promoting New Jersey, an applicant may include support for a workforce development program established by the taxpayer with a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(13) require that, to qualify for additional credit under the bill for promotion of or investment in New Jersey, a taxpayer is required to include at least four, rather than two, of the criteria outlined in the bill. The amendments eliminate a provision of the bill that, as introduced, would have provided an opportunity for more tax credits if four criteria were met, rather than two;

(14) authorize the creation of social media posts from an official account of a leading actor or actress in the film for the purpose of fulfilling the criteria for the creation of five public social media posts, as described in the bill, for the purpose of the additional credit for promotion of or investment in New Jersey;

(15) require the director to purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program valued at no more than a cumulative amount of $80 million in State fiscal year 2026, $160 million in State fiscal year 2027, $240 million in State fiscal year 2028, and $200 million in each State fiscal year thereafter, subject to certain conditions;

(16) make technical changes.

FISCAL IMPACT:

Fiscal information for this bill is not currently unavailable.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 4618
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 1, 2025

SUMMARY

Synopsis: Modifies certain requirements and award availability under film and digital media content production tax credit program.

Type of Impact: Annual State revenue reduction.

Agencies Affected: New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Revenue Reduction	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in indeterminate annual State revenue reductions, subject to maximum tax credit award caps across all program categories.

- The OLS notes that the actual fiscal impact will depend on application volume, project eligibility, and authority discretion in awarding credits.

BILL DESCRIPTION

The bill expands the film and digital media content production tax credit program administered by the New Jersey Economic Development Authority. Key provisions include extending program availability until July 1, 2050; restructuring tax credit percentages and award caps for New Jersey studio partners; creating additional tax credit categories for television series relocation, promotional activities, and economic development initiatives; expanding eligibility for certain post-production activities; and modifying recapture provisions and reporting requirements.

The bill establishes maximum annual tax credit award caps of: up to $550,000,000 for New Jersey studio partners; up to $400,000,000 for New Jersey film-lease production companies; up to $100,000,000 for other taxpayers; and up to $130,000,000 for digital media content production.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in indeterminate annual State revenue reductions, subject to maximum tax credit award caps across all program categories.

The bill maintains the existing maximum potential fiscal exposure for New Jersey studio partners at up to $550,000,000 annually, but restructures the allocation by increasing the base annual cap from $150,000,000 to $300,000,000 beginning in fiscal year 2026 while reducing discretionary awards from $400,000,000 to $250,000,000.

Maximum annual tax credit caps for other categories remain unchanged: up to $400,000,000 for New Jersey film-lease production companies consisting of $150,000,000 base plus $250,000,000 discretionary; up to $100,000,000 for other taxpayers; and up to $130,000,000 for digital media content production consisting of $30,000,000 base plus $100,000,000 discretionary.

The bill creates several new additional tax credit categories that operate within existing caps rather than establishing separate fiscal exposure. These include: television series relocation incentives providing up to 4.5 percent additional credits; promotional and investment credits providing up to 4.5 percent or 9.0 percent additional credits depending on criteria met; and enhanced economic development credits providing up to 4.5 percent additional credits for hiring residents of economically disadvantaged areas.

The 10-year program extension through fiscal year 2050 maintains long-term fiscal exposure at current maximum levels rather than allowing the program to expire in fiscal year 2040.

The OLS notes that actual annual fiscal impact will vary significantly based on application volume, project eligibility determinations, and the Economic Development Authority's discretion in awarding credits.

The OLS notes that while the bill may result in State revenue reductions through tax credit awards, the program can stimulate economic activity and job creation within New Jersey's film and digital media industries, which could generate offsetting State revenue through increased business activity, employment, and related tax collections. The net fiscal impact remains indeterminate due to the difficulty in quantifying the economic effects of the incentivized production activities.

Section:	*Revenue, Finance, and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 5827

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 16, 2025

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex and Hudson)

SYNOPSIS

Modifies certain requirements and award availability under film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a privilege period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified **[**independent**]** post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities

performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), **[**or**]** the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a

tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.), "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2026, and shall not

exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ⟦2023⟧ 2026, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional ⟦$400,000,000⟧ $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the

tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, the authority **[**shall**]** may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall **[**terminate**]** be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56

(C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-

12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred

compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the

use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has

obtained a minimum six-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, “film” shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New

Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section, including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or

ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

<u>“New Jersey film-lease post-production company” means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility</u>

requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease post-production company's lease

with the New Jersey film-lease production facility, which may be extended at the discretion of the authority.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction **[**and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the

provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)**]** ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax **[**credit**]** credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit

Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed

schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity

agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company, "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**[**; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; **[**and**]**

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and

performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

"Television series that relocated to New Jersey" means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

(cf: P.L.2024, c.33, s.2)

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased, through vendors authorized to do business in New Jersey exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner or New Jersey film-lease production company

shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable year commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent **[**for**]** of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey

film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses ⟦of the taxpayer⟧ are incurred for post-production services, including visual effects services performed at a New Jersey film-lease ⟦production⟧ partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed by a qualified ⟦independent⟧ post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified ⟦independent⟧ post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et

seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., ⟦or⟧ the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to

claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[**and**]** , P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a

cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ⟦2023⟧ 2026, in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional ⟦$400,000,000⟧ $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes

relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege

periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year **[**2040**]** 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods

commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to

agreed-upon procedures prescribed by the authority and the director, no later than [two] four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included

in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not **[**more**]** less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a

production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum six-episode order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, “film” shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or

other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition

of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which may be extended at the discretion of the authority.

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a

designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction [and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)] ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey film-lease production company’s lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the

date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within two years of the date of the New Jersey studio partner’s lease with the New Jersey film-lease production facility, which period may be extended at the discretion of the authority. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production

costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. For a New Jersey studio partner or New Jersey film-lease production company, "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio **[**partners**]** partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; **[**for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**[**;

and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the

State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

“Television series that relocated to New Jersey” means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2024, c.33, s.3)

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[**two**]** four and one-half percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(1) the application is accompanied by a **[**diversity**]** plan outlining specific goals, which may include advertising and recruitment actions, for hiring **[**minority persons and women**]** residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. [The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines specific goals that include hiring persons as performers in the film who are: (i) women or members of a minority group; (ii) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (iii) members of a bona fide labor union representing film and television performers.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents [who represent the diversity of the State population] of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

(cf: P.L.2024, c.33, s.4)

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section, and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and

further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; **[**or**]**

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner or New Jersey film-lease production company that enters into lease of at least three years to occupy a film-lease partner facility, or the holder of such certificate occurred at least one year prior to the date of application to the director.

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); **[**and**]**

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.).

(cf: P.L.2025, c.2, s.9)

5. (New section) a. A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

(1) the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least two of the following criteria:

(a) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

(b) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer or the film, or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

(c) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(d) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(e) support for a workforce development program established by a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(f) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities

in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(g) the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

(h) any alternative criteria as the authority shall provide pursuant to subsection c. of this section; and

(2) the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

b. Unless the taxpayer a film that is eligible for an additional tax credit for a television series that relocated to New Jersey, pursuant to paragraph (3) of subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) or paragraph (3) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), in addition to the credit provided pursuant to subsection a. of this section, a taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that the taxpayer's plan outlining specific goals to promote or invest in New Jersey includes a total of at least four of the criteria in paragraph (1) of subsection a. of this section.

c. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section, including, at a minimum, alternative promotional criteria, approved social media platforms, and requirements for a vendor's physical location.

6. This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

STATEMENT

This bill modifies certain provisions of the film and digital media content production tax credit program (program) administered by the New Jersey Economic Development Authority. Among other changes, the bill extends the program's availability until July 2049, ten years longer than it is available under current law.

Increased Tax Credit Awards

This bill increases the amount of tax credits that may be awarded to a New Jersey studio partner under the program, from 35 percent to 40 percent of the taxpayer's qualified film production expenses during a tax period, when the expenses are incurred for services performed and tangible personal property purchased for use at a sound stage or other location within the State and within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

Incentive to Relocate Television Series to New Jersey

This bill provides that a New Jersey studio partner or New Jersey film-lease production company is eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey. The bill defines "television series that relocated to New Jersey" to mean a scripted television series of at least six episodes, with an average production budget of $2.5 million per episode, and for which all prior seasons of the series were filmed outside New Jersey.

New Jersey Film-Lease Post-Production Company

The bill defines a "New Jersey film-lease post-production company" to mean a taxpayer, including any taxpayer that is a member of combined group or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies certain criteria set forth in the bill.

If a New Jersey film-lease partner facility has not received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company is required to have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of gross rentable space. For

purposes of satisfying certain provisions in the bill, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 50 percent.

Qualified Post-Production Company

The bill replaces the definition of "independent post-production company" with a definition of "qualified post-production company" and replaces the former term with the latter throughout the bill. Under the bill, "qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy certain requirements under the bill.

Under the program, a taxpayer's expenses for visual effects services performed by a qualified post-production company may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent.

Application and Carry Forward of Credit

The bill provides that a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may use the credit in the tax period for which it was issued, the tax period in which it was issued, or in any tax period after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser, without the need to amend the return for the year for which the credit was issued.

Maximum Credit Availability

Under current law, in fiscal year 2024 and in each fiscal year thereafter until the conclusion of the program, the cumulative total awards are limited to $150 million for New Jersey studio partners. However, the authority may, in its discretion, award an additional $400 million to New Jersey studio partners.

This bill amends current law so that, beginning in fiscal year 2026, the maximum cumulative total awards is increased to $300 million for New Jersey studio partners. In addition, the bill decreases the additional discretionary awards to $250 million for New Jersey studio partners beginning in fiscal year 2026.

Recapture of Tax Credits

Under current law, the approval of tax credits for New Jersey studio partners and New Jersey film-lease production companies is

subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, the recapture of tax credits. The bill provides that the recapture of tax credits may only apply to the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate.

Current law also provides that if a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period, the authority is required to recapture certain portions of the tax credit. This bill instead authorizes the authority to recapture certain portions of the tax credit in these instances. However, the bill also provides an exception to this recapture provision in any circumstance in which the New Jersey studio partner fails to occupy the production facility for any reason outside the control of the New Jersey studio partner. The bill includes similar exceptions for failure to occupy the required space for a New Jersey film-lease production or New Jersey film-lease post-production company.

Deferred Compensation

Under current law, a New Jersey studio partner that makes certain deferred compensation payments is permitted to file a supplemental report no later than two years after the date on which the production concludes. This bill modifies current law to permit the submission of a supplemental report no later than four years after the date on which the production concludes.

Additionally, the bill permits a New Jersey studio partner to include deferred compensation payments made directly to a bona fide labor union, including those payments for which tax was not withheld under the gross income tax, within qualified film production expenses, provided that the payments otherwise satisfy the requirements of the program.

Current law permits a New Jersey studio partner that incurs $25 million or more in qualified film production expenses in the State to include within "qualified film production expenses," in excess of amounts paid to highly compensated individuals, up to $72 million of certain wages or salaries. This bill additionally permits a New Jersey studio partner that incurs $125 million or more in qualified film production expenses in the State for the production of a feature film to include within "qualified film production expenses," in excess of the amounts paid to highly compensated individuals, amounts paid for scripts, and amounts paid or incurred for deferred compensation, to include up to $72 million of certain wages and salaries.

Expansion of Transferred Tax Credit Applicability

Under current law, tax credits awarded under the program may be applied against a taxpayer's liability under the gross income tax or

corporation business tax. In addition, this bill authorizes the application of transferred credits against a taxpayer's liability for an insurance premium tax.

Credit for Diversity Plan

Under current law, a taxpayer who is eligible for tax credits under the program may receive an additional credit in an amount equal to two percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a tax period if: (1) the application is accompanied by a diversity plan outlining specific goals, which may include advertising and recruitment actions, for hiring minority persons and women; (2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and (3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

Current law provides that a tax credit for four percent of qualified film production expenses may be available to a taxpayer, rather than two percent, if the diversity plan includes specific goals that include hiring persons as performers in the film who are: (1) women or members of a minority group; (2) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (3) members of a bona fide labor union representing film and television performers.

This bill removes the additional requirements necessary for a taxpayer to receive a four percent tax credit, rather than two percent, and increases the bonus credit for all eligible applicants. Under the bill, a taxpayer may earn a credit equal to four and one-half percent of qualified film production expenses for a diversity plan meeting the same criteria required for a credit equal to four percent of digital media content production expenses.

In addition, this bill requires, instead of a diversity plan for hiring minority persons, and women, that an application for this additional credit be accompanied by a plan outlining specific goals, which may include advertising and recruitment actions, for hiring residents of an economically disadvantaged area in the State, a distressed municipality, or land owned by the federal government on or before December 31, 2005.

New Jersey Promotion and Support Credit

In addition to the amount of tax credits otherwise allowed under the program, the bill allows an additional promotional tax credit for certain film productions in an amount equal to four and one-half percent of a taxpayer's qualified film production expenses or qualified digital media content production expenses under certain conditions. Specifically, a New Jersey studio partner or New Jersey film lease production company may qualify for this additional credit by submitting, alongside an application to the authority and the

Director of the Division of Taxation in the Department of the Treasury (director), a plan outlining specific goals to promote or invest in New Jersey. Under the bill, a taxpayer is required to include at least two promotional criteria in the plan, and the authority and director are required to verify that the taxpayer has met the goals outlined in its plan.

Specifically, a taxpayer is required to satisfy at least two of the following criteria to qualify for the additional promotional credit:

(1) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority;

(2) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State;

(3) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(4) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(5) support for a workforce development program established by a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(6) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for New Jersey residents of an economically disadvantaged New Jersey area, a distressed municipality, or land owned by the federal government on or before December 31, 2005;

(7) the taxpayer engages at least five vendors authorized to do business in New Jersey, each of which employs at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality, or on land owned by the federal government on or before December 31, 2005; and

(8) any alternative criteria as the authority may provide.

However, unless a taxpayer is eligible for additional credit under the bill for a television series that relocated to New Jersey, the additional promotional credit allowed under the bill may be increased to nine percent, provided that at least four of the above criteria are met.

Modification of Definitions

This bill amends the definition of "commitment period" for New Jersey studio partners under the program to be the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following the issuance of a temporary

certificate of occupancy or commencement of a lease term, as appropriate. Under current law, the commitment period expires 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term.

The bill also amends the definition of "eligibility period," in the case of a taxpayer leasing a production facility, to mean the period beginning at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years. Under current law, the term is limited to a maximum of 10 years.

The bill includes within the definition of "film," for a New Jersey studio partner, an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner.

The bill amends the definition of "highly compensated individual" to remove a distinction under current law that, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. Instead, for any taxpayer, the term means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production.

The bill amends the definition of "New Jersey film-lease production company," in relevant part, to mean a taxpayer, including any taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, which taxpayer meets additional requirements. Under current law, the term includes a taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and material operation role in the production, among additional requirements.

The bill further amends the definition of a "New Jersey film-lease production company" to include any other member of a taxpayer's combined group, any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial

audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred. Under current law, this term includes an unrelated entity engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976."

The bill modifies the definition of "qualified film production expenses," as it applies to New Jersey studio partners and New Jersey film-lease production companies, to include: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Under current law, script costs are not included in qualified film production expenses. A New Jersey studio partner or New Jersey film-lease production company is permitted, under the bill, to include script costs, including the cost of script purchase.

State Purchase of Tax Credits

Under current law, the director is permitted to purchase unused tax credits awarded under various economic development programs established under the "New Jersey Economic Recovery Act of 2020," including the Aspire Program and the Cultural Arts Incentives Program.

Under the bill, the director is required to purchase unused tax credits and tax credit transfer certificates awarded under the Aspire Program and the Cultural Arts Incentives Program in an amount equal to 85 percent of the value of the tax credit, provided that certain conditions are met. The bill also requires that the director purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program in an amount equal to 95 percent of the value of the tax credit, provided that certain conditions are met. In each case, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year prior to the date of application to the director.

[First Reprint]

ASSEMBLY, No. 5827

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 16, 2025

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex and Hudson)

SYNOPSIS

Modifies certain requirements and award availability under film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 27, 2025, with amendments.

AN ACT concerning the film and digital media content production tax credit program, amending and supplementing P.L.2018, c.56, and amending P.L.2020, c.156.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production[1]**[**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ABU committee amendments adopted June 27, 2025.

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1] **[**(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a privilege period commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]** **[1]**

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for post-production services, including visual effects services performed by a qualified **[**independent**]** post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by

a taxpayer that is a qualified ⟦independent⟧ post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), ⟦or⟧ the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has

applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) [1]**[**, "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.**]**[1] , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

(2) A [1]credit issued to a[1] taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first [1]**[**use the credit in**]** be taken by the tax certificate holder for[1] the tax period for which it was issued, [1]for[1] the tax period in which it was issued, or in any tax period [1]**[**after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser**]** during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section[1] , without the need to amend the return for the year for which the credit was issued.

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio

partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ [1]⟦2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year⟧[1] 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ⟦2023⟧ [1]⟦2026⟧ 2023[1], in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional ⟦$400,000,000⟧ [1]⟦$250,000,000⟧ $400,000,000[1] may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each

fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year [1]**[**2040**]** 2050[1], to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the

duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category, in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted

to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $30,000,000 in

fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media

content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. <u>Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.</u>

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following: digitally formatted and distributed content, which content includes data or information created in analog form, but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased

as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not ⟦more⟧ less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show has obtained a minimum [1]⟦six-episode⟧ four-episode[1] order from, and is commissioned and scheduled to premiere on, a major linear network or streaming service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a [1]⟦New Jersey studio partner⟧[1] facility that is leased or owned by the New Jersey studio partner [1]and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner[1]. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

"Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means**[**, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,**]** an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey, provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section, including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity authorized to do business in New Jersey that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated

as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least **[1]**[50]**]** 51[1] percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to

occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,[1] the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]**[**production**]** post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]**[**may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility [1]and who will shoot at least 50 percent of the total principal photography

shoot days of the project within New Jersey[1]. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days of the project within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. [1]A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility’s receipt of a temporary or final certificate of occupancy.[1] A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or

product during preproduction, production, and postproduction [and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)] ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1][two years] one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1][period may be extended at the discretion of the authority] the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease

production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey

film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or

occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of “qualified film production expenses” for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production

company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio [partners] partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon

procedures prescribed by the authority and the director, no later than ⟦two⟧ four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; ⟦for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,⟧ and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines ⟦; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines⟧, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; ⟦and⟧

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and

salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1]**[**"Television series that relocated to New Jersey" means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.**]**[1]

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability

company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.
(cf: P.L.2024, c.33, s.2)

2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent, of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey or the qualified film production expenses of the taxpayer during the taxable year for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production **[1]**; and, for reality shows, at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey and the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased, through vendors authorized to do business in New Jersey exceed $1,000,000 per production**]**[1];

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of a taxpayer designated as a New Jersey studio partner **[**or New Jersey film-lease production company**]**, **[**35**]** 40 percent, in the case of a taxpayer designated as a New Jersey film-lease production company, 35 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 30 percent, of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

[1][(3) In addition to the amount of tax credits otherwise allowed pursuant to this subsection, a taxpayer that is designated as a New Jersey studio partner, or New Jersey film-lease production company shall be eligible for an additional tax credit in an amount equal to four and one-half percent of the taxpayer's qualified film production expenses incurred during a taxable year commencing on or after July 1, 2025 but before July 1, 2049 for a film that is a television series that relocated to New Jersey.**]**[1]

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey, provided, however, that for applications submitted after the effective date of P.L.2024, c.33, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent **[**for**]** of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 40 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, that are incurred by a taxpayer that is a New Jersey film-lease post-production company, or that are incurred by a taxpayer that is a New Jersey studio partner, provided that:

(a) at least $500,000 of the qualified digital media content production expenses **[**of the taxpayer**]** are incurred for post-production services, including visual effects services performed at a New Jersey film-lease **[**production**]** partner facility, are incurred by a taxpayer that is a New Jersey film-lease post-production company, or are incurred by a taxpayer that is a New Jersey studio partner;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(4) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for post-production services, including visual

effects services performed by a qualified [independent] post-production company, provided that:

(a) at least $500,000 of the qualified digital media content production expenses of the taxpayer are incurred for post-production services, including visual effects services performed by a taxpayer that is a qualified [independent] post-production company, which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent;

(b) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(c) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a

taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. (1) A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., **[**or**]** the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) **[**and**]** **[1]** **[**, P.L.1945, c.162 (C.54:10A-1 et seq.)**]** **[1]** , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or

N.J.S.17B:23-5 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

(2) A [1]credit issued to a[1] taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first [1][use the credit in] be taken by the tax certificate holder for[1] the tax period for which it was issued, [1]for[1] the tax period in which it was issued, or in any tax period [1][after the tax period for which it was issued, up to and including the next three successive tax periods after receipt by the purchaser] during the time a business is required to maintain the project at a location in this State, subject to the carryforward provisions of this section. The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions of this section. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this paragraph, subject to the carryforward provisions in this section[1] , without the need to amend the return for the year for which the credit was issued.

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), to taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year [2040] 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the limitation on the value of tax credits approved by the director for New Jersey film-lease production companies and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year [2040]

[1][2026, and shall not exceed a cumulative total of $300,000,000 in fiscal year 2026 and in each fiscal year thereafter prior to fiscal year][1] 2050, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year [2023] [1][2026] 2023[1], in addition to the cumulative total tax credits made available for New Jersey studio partners pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional [$400,000,000] [1][$250,000,000] $400,000,000[1] may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the value of tax credits approved by the director for New Jersey studio partners and the limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease production companies shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of $150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year [1][2040] 2050[1], to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for New Jersey film-lease production companies pursuant to this paragraph and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362), up to an additional $250,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease production companies for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease production companies shall be subject to award

agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination, except that in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate. Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, except for the failure to occupy the production facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority ⟦shall⟧ may recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall ⟦terminate⟧ be reduced to eliminate the portion of the tax credits only available by virtue of such designation. Notwithstanding any law, regulation, or rule to the contrary, in the event of a recapture of tax credits, the tax credits shall only be recaptured from the initial recipient of the tax

credits, not the purchaser or assignee of a tax credit transfer certificate. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved to each such category in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. [1]Notwithstanding any provision of this paragraph to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be

approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed $100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in the next subsequent fiscal year by the certified amount remaining for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than $100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between $100,000,000 and the certified amount shall be made available to New Jersey studio partners, first from any funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to subparagraph (f) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.[1]

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ⟦2040⟧ 2050 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of

P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), up to an additional $100,000,000 may be made available, in the discretion of the authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies pursuant to paragraph (3) of subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362).

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than **[**two**]** four years after the date on which the production concludes. The deferred compensation payments, including deferred compensation payments made directly to a bona fide labor union, shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review. The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and

documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company, to an independent contractor, or to a homeowner for the use of a personal residence an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an

employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the taxpayer to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding, but not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state. Notwithstanding any provision of this section to the contrary, deferred compensation payments made directly to a bona fide labor union on behalf of an individual that performed services on a production that tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. was not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements of this section.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Commitment period" means, for New Jersey studio partners, the period beginning with the commencement of the eligibility period and **[**expiring**]** continuing for a minimum of 10 years following:

(1) in the case of a taxpayer developing or purchasing a production facility, the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner; or

(2) in the case of a taxpayer leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner.

"Digital media content" means the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not ⟦more⟧ less than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, talk show, competition or variety show filmed before a live audience, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming; a sports event; a production that solicits funds; a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3; a production primarily for private, industrial, corporate, or institutional purposes; or a reality show, except if the production company has obtained a minimum [1]⟦six-episode⟧ four-episode[1] order from, and is commissioned and scheduled to premiere on, a major linear network or streaming

service. Notwithstanding any provision of this section to the contrary, for a New Jersey studio partner, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a [1][New Jersey studio partner][1] facility that is leased or owned by the New Jersey studio partner [1]and for which facility such New Jersey studio partner received its designation as a New Jersey studio partner[1] . "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident taxpayer, or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means [, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production and, for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,] an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New

Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey and the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

["Independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production, including visual effects services for a film or films described in this section including a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section, which entity is not a publicly traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.**]**

"Loan out company" means, for applications submitted prior to the effective date of P.L.2024, c.33, a personal service corporation or other entity with which a taxpayer contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production and, for applications submitted on or after the effective date of P.L.2024, c.33, a personal service corporation or other entity, authorized to do business in New Jersey, that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for

the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more;

(b) a production facility built, leased, or operated by a production company designated as a New Jersey studio partner and which the New Jersey studio partner no longer occupies; or

(c) a portion of a production facility owned by a New Jersey studio partner that is in excess of the space being utilized by the New Jersey studio partner; provided the spaces utilized and unutilized by the New Jersey studio partner both exceed 250,000 square feet.

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L.2023, c.97 (C.34:1B-4.2 et al.), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

(4) No more than three New Jersey production facilities may be designated as a New Jersey film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner.

"New Jersey film-lease post-production company" means a taxpayer, including any taxpayer that is a member of a combined group pursuant to section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies the criteria of paragraph (3) of subsection b. of this section. If a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease shall be for not less than three years of occupancy of the New Jersey film-lease partner facility and include at least 36,000 square feet of gross rentable space. For purposes of satisfying the requirements of subparagraph (a) of paragraph (3) of subsection b. of this section, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least **1[**50**]** 51**1** percent.

In the event that the authority determines that a New Jersey film-lease post-production company has failed to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease post-production company, **1**subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey film-lease post-production company,**1** the authority may recapture solely from that film production company the portion of any tax credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease post-production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given but for which the authority has not approved final documentation shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-

lease partner facility before that facility receives a temporary or final certificate of occupancy, and the New Jersey film-lease post-production company fails to meet the qualifications of a New Jersey film-lease post-production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease [1]**[**production**]** post-production[1] company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility, which [1]**[**may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction as evidenced by the issuance of a building permit within one year of the date of the New Jersey film-lease post-production company's lease with the New Jersey film-lease production facility[1].

"New Jersey film-lease production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey. In addition to the forgoing, if a New Jersey film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria: (1) the film production company shoots at least 50 percent of the total principal photography shoot days [1]of the project[1] within New Jersey at the New Jersey film-lease partner facility; or (2) the qualified film production expenses of the project for all services performed and goods used or consumed at the New Jersey film-lease partner facility and payments made for the use of the New Jersey film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project. In addition to the forgoing, if a New Jersey film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square

feet of soundstage space, and the film production company shall have executed a contract with the owner or developer of the New Jersey film-lease partner facility to provide production services for films produced by the film production company in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy. [1]A television series produced by a New Jersey film-lease production company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy.[1] A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to ⟦P.L.2018, c.131⟧ section 23 of P.L.2018, c.48 (C.54:10A-4.11), any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction ⟦and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.)⟧ ; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred.

In the event the authority determines that a New Jersey film-lease production company has failed to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the provisions of this section, except for the failure to occupy the New Jersey film-lease partner facility for any reason outside the control of the New Jersey film-lease production company, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons

outside the control of the New Jersey film-lease production company,[1] the authority may recapture solely from that film production company the portion of any tax [credit] credits that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey film-lease production company was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey film-lease production company fails to meet the qualifications of a New Jersey film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1][two years] one year[1] of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility, which [1][period may be extended at the discretion of the authority] the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey film-lease production company's lease with the New Jersey film-lease production facility[1].

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New

Jersey studio partner or otherwise comply with the provisions of this section, except for the failure to occupy a New Jersey film-lease partner facility for any reason outside the control of the New Jersey studio partner, [1]subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the New Jersey studio partner,[1] the authority may rescind the New Jersey studio partner designation and may recapture solely from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner, except that the tax credits shall not be recaptured from the purchaser or assignee of a tax credit transfer certificate, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall be reduced to eliminate the portion of the tax credits only available by virtue of such designation. If a New Jersey studio partner was issued a film tax credit on the basis of a lease or sublease with a New Jersey film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the New Jersey studio partner fails to meet the qualifications of a New Jersey studio partner, including, but not limited to, the failure to occupy the required amount of space at New Jersey film-lease production facility for the required time, the authority shall not recapture any tax credits within [1]**[**two years**]** one year[1] of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility, which [1]**[**period may be extended at the discretion of the authority**]** the authority shall extend for one additional year if the New Jersey film-lease production facility commences construction, as evidenced by the issuance of a building permit, within one year of the date of the New Jersey studio partner's lease with the New Jersey film-lease production facility[1]. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to **[**P.L.2018, c.131**]** section 23 of P.L.2018, c.48 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf or for its benefit such that the designated New Jersey studio partner: (1) controls such film or product during pre-production, production, and post-production; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred. No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. For applications submitted prior to the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, advertising digital media, or other costs not directly related to the production of digital media content. For applications submitted after the effective date of P.L.2024, c.33, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content, or any costs included in an application submitted to the authority, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film, including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include, but not be limited to: the wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. [1]For a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. However, cumulative expenses for production insurance premiums, producer fees, and rights fees shall not exceed seven and one-half percent of "qualified film production expenses" for any New Jersey studio partner or New Jersey film-lease production company.[1] For a New Jersey studio partner or New Jersey film-lease production company [1]that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years[1], "qualified film production expenses" includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. [1]Notwithstanding the foregoing, for any original application approved by the authority on or after January 1, 2028 for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, "qualified film production expenses" shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the taxpayer satisfies two of the following criteria as

certified by an independent certified public accountant licensed in this State and according to such procedures as the authority may establish: the taxpayer establishes a writer's skills development program with a college, including a community college, apprentice program, university, vocational school, or high school in this State; the taxpayer opens a writer's room in this State at a production facility where writing support services are provided at least in part for the film; a writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; the taxpayer hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film; or any alternative criteria as the authority shall provide.[1] Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by a New Jersey studio [partners] partner, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than [two] four years after the date on which the production concludes. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a New Jersey studio partner or New Jersey film-lease production company; [for taxpayers other than New Jersey studio partners and New Jersey film-lease production companies,] and payment in excess of $750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines[; and, for New Jersey studio partners and New Jersey film-lease production companies, payment in excess of $500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors,

including music directors, producers, and performers, other than background actors with no scripted lines**]**, except as follows:

(1) for a New Jersey studio partner that incurs less than $25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) (Deleted by amendment, P.L.2023, c.97)

(3) (Deleted by amendment, P.L.2023, c.97)

(4) (a) for a New Jersey studio partner that incurs $25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(b) for a New Jersey studio partner that incurs $125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, for the production of a film that is a feature film, in excess of the amounts paid to highly compensated individuals, amounts paid for script costs, amounts paid or incurred for deferred compensation, including advances on deferred compensation, an additional amount, not to exceed $72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(5) for a New Jersey film-lease production company that incurs less than $50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(6) for a New Jersey film-lease production company that incurs $50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this paragraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed

$60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy the requirements of subparagraph (a) of paragraph (1) of subsection a. of this section.

[1][“Television series that relocated to New Jersey” means a scripted television series of at least six episodes, with an average production budget of $2,500,000 per episode, and for which all prior seasons of the series were filmed outside New Jersey.]**[1]**

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2024, c.33, s.3)

3. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. a. A taxpayer, upon approval of an application to the authority and the director, **[1]**and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),**[1]** shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[**two**]** four **[1][**and one-half**]**[1] percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, **[**2039**]** 2049, provided that:

(1) the application is accompanied by a **[**diversity**]** plan outlining specific goals, which may include advertising and recruitment actions, for hiring **[**minority persons and women**]** residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

(2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

(3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

b. [The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines specific goals that include hiring persons as performers in the film who are: (i) women or members of a minority group; (ii) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (iii) members of a bona fide labor union representing film and television performers.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

c. The director and the authority shall adopt any rules necessary to implement this provision.

d. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents [who represent the diversity of the State population] of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005.

(cf: P.L.2024, c.33, s.4)

4. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section, and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and

further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; **[**or**]**

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount [1]for any original application approved by the authority on or after January 1, 2026[1] , provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner [1]**[**or New Jersey film-lease production company that enters into lease of at least three years to occupy a film-lease partner facility,**]**[1] or the holder of such certificate [1]originally issued to a New Jersey studio partner,[1] occurred at least one year prior to the date of application to the director and provided that the director [1]shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund[1].

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); **[**and**]**

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.).

(cf: P.L.2025, c.2, s.9)

5. (New section) **[1]**[a.]**[1]** A taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, **[1]**and subject to the provisions of section 6 of P.L. , c. (pending before the Legislature as this bill),**[1]** shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four **[1]**[and one-half]**[1]** percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that:

[1][(1)]** a.[1] the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least **[1]**[two]** four[1] of the following criteria:

[1][(a)]** (1)[1] the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority. To receive credit for this promotional criterion, a taxpayer shall provide a list of locations in New Jersey used for the film and relevant footage for use by the authority for promotional purposes;

[1][(b)]** (2)[1] the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the taxpayer **[1]**[or]**,[1] the film, [1]a leading actor or actress in the film,[1] or as otherwise permitted by the authority. To receive credit for this promotional criterion, the taxpayer shall provide the Internet website on which the post is publicly visible for use by the authority for promotional purposes;

[1][(c)]** (3)[1] the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

[1][(d)]** (4)[1] the film is set, at least in part, in New Jersey, and the State is referenced in the film;

[1][(e)]** (5)[1] support for a workforce development program established by [1]the taxpayer with[1] a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

[1][(f)]** (6)[1] a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for State residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or land owned by the federal government on or before December 31, 2005;

[1][(g)]** (7)[1] the taxpayer engages at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality as that term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323), or on land owned by the federal government on or before December 31, 2005; and

[1]**[**(h)**]** (8)[1] any alternative criteria as the authority shall provide pursuant to [1]**[**subsection c. of this section**]** rules and regulations adopted by the authority[1]; and

[1]**[**(2)**]** b.[1] the director and the authority have verified that the taxpayer met the goals outlined in the plan submitted pursuant to paragraph (1) of this subsection.

[1]**[**b. Unless the taxpayer a film that is eligible for an additional tax credit for a television series that relocated to New Jersey, pursuant to paragraph (3) of subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) or paragraph (3) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), in addition to the credit provided pursuant to subsection a. of this section, a taxpayer that is a New Jersey studio partner or New Jersey film-lease production company, upon approval of an application submitted pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.) by the authority and the director, shall be allowed an additional tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to four and one-half percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that the taxpayer's plan outlining specific goals to promote or invest in New Jersey includes a total of at least four of the criteria in paragraph (1) of subsection a. of this section.

c. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section, including, at a minimum, alternative promotional criteria, approved social media platforms, and requirements for a vendor's physical location.**]**[1]

[1]6. (New section) Notwithstanding any provision of P.L. , c. (pending before the Legislature as this bill) or any law, rule, or regulation to the contrary:

a. any additional tax credits allowed pursuant to the amendatory and supplemental provisions of P.L. , c. (pending before the Legislature as this bill) shall not exceed an aggregate additional amount totaling five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049, provided that this limitation shall only apply to the additional tax credit allowed for: hiring residents from certain areas in the State pursuant to section 4 of P.L.2018, c.56, as amended by section 3 of P.L. , c. (pending before the Legislature as this bill); and the promotion of this State pursuant to section 5 of P.L. , c. (pending before the Legislature as this bill); and

b. the total amount of tax credits allowed under "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.), as amended and supplemented, shall not exceed an aggregate additional amount totaling 45 percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period commencing on or after July 1, 2025 but before July 1, 2049.[1]

[1]7. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the New Jersey Economic Development Authority may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the authority deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).[1]

[1][6.] 8.[1] This act shall take effect immediately and shall apply to applications submitted after the effective date of this act.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5827

STATE OF NEW JERSEY

DATED: JUNE 19, 2025

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5827.

As reported, this bill establishes the New Jersey Innovation Authority in, but not of, the Department of the Treasury as an instrumentality of the State. The authority will consist of 13 members, nine of which will be public members. The public members will have knowledge and expertise in one or more fields including, but not limited to: data science; public engagement; the development and implementation of digital technologies and digital product development; and the digital delivery of products, services, or benefits, and the practical applications of the same. The chairperson of the authority will be appointed by the Governor from the public members. The authority will delegate to the Chief Innovation Officer the ability to appoint, retain, or employ a legal director, engineers, attorneys, accountants, financial experts, and any such officers, agents, employees, and experts, or other persons as it may require for the performance of its duties, all without regard to the civil service law.

The day-to-day operations of the authority will be directed and administered by the Chief Innovation Officer for the State of New Jersey. Upon enactment of this bill, the initial appointment of the Chief Innovation Officer will be made by the Governor, and all subsequent appointments will be made by the authority upon a majority vote of its members. The Chief Innovation Officer will be the chief executive officer and will serve at the pleasure of the authority.

The responsibilities of the New Jersey Innovation Authority will include serving as the primary authority on technology innovation for the State and advising and providing centralized implementation and delivery services to the Executive Branch of State Government. On or before March 31 of each calendar year, the authority will prepare an annual report of its activities for the preceding calendar year and submit such annual report to the Governor and the Legislature.

This bill provides that all purchases, contracts, or agreements made by the authority must be made or awarded directly by the authority after public advertisement for bids, unless certain circumstances are met, in which case the purchase, contract, or agreement may be made without public bid or advertising. The authority will also be authorized to consult with, enter into agreements or contract with, and transfer, disburse, or grant funds, in the authority's discretion, to an established

nonprofit entity, including the National Center for Civic Innovation, Inc., as such nonprofit entity may be identified by the authority, to effectuate any of the purposes or powers, either directly or indirectly, granted to the authority.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5827

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2025

The Assembly Budget Committee reports favorably and with committee amendments Assembly Bill No. 5827.

As amended and reported, this bill modifies certain provisions of the film and digital media content production tax credit program (program) administered by the New Jersey Economic Development Authority. Among other changes, the bill extends the program's availability until July 2049, ten years longer than it is available under current law.

Increased Tax Credit Awards

This bill increases the amount of tax credits that may be awarded to a New Jersey studio partner under the program, from 35 percent to 40 percent of the taxpayer's qualified film production expenses during a tax period, when the expenses are incurred for services performed and tangible personal property purchased for use at a sound stage or other location within the State and within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

Under the bill, a taxpayer may also qualify for additional tax credits, not to exceed five percent of the taxpayer's qualified film production expenses or qualified digital media content production expenses. According to the conditions in the bill, additional tax credits may be allowed for hiring residents from certain areas in the State and for the promotion of this State. The bill limits the total amount of tax credits allowed under the program to 45 percent of the qualified film production expenses or qualified digital media content production expenses.

Reality Show Total Film Production Expenses

This bill removes a requirement under current law that, for a reality show: (1) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey; and (2) the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through

vendors authorized to do business in New Jersey exceed $1,000,000 per production. Instead, a reality show is required to meet either requirement, as other films are required to under current law.

New Jersey Film-Lease Post-Production Company

The bill defines a "New Jersey film-lease post-production company" to mean a taxpayer, including any taxpayer that is a member of combined group or any other entity in which the New Jersey film-lease post-production company has a material ownership interest and a material operational role in the production, that otherwise complies with the eligibility requirements of the program, has made a commitment to lease or otherwise occupy production space in a New Jersey film-lease partner facility, and satisfies certain criteria set forth in the bill.

If a New Jersey film-lease partner facility has not received a temporary or final certificate of occupancy, a New Jersey film-lease post-production company is required to have entered into a lease or sublease with the owner or developer of a New Jersey film-lease partner facility, which lease or sublease is for not less than three years of occupancy of the New Jersey film-lease partner facility and includes at least 36,000 square feet of gross rentable space. For purposes of satisfying certain provisions in the bill, a New Jersey film-lease post-production company may include in an application the qualified digital media content production expenses incurred for post-production, including visual effects activities that are performed by the New Jersey film-lease post-production company or by a business entity in which the New Jersey film-lease post-production company has an ownership interest of at least 51 percent.

Qualified Post-Production Company

The bill replaces the definition of "independent post-production company" with a definition of "qualified post-production company" and replaces the former term with the latter throughout the bill. Under the bill, "qualified post-production company" means a corporation, partnership, limited liability company, or other entity engaged in post-production, including visual effects activities on a film or films described in this section, including, but not limited to, a film or films that do not satisfy certain requirements under the bill.

Under the program, a taxpayer's expenses for visual effects services performed by a qualified post-production company may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent.

Application and Carry Forward of Credit

The bill provides that a credit issued to a taxpayer, including the purchaser or assignee of a tax credit transfer certificate, may first be taken by the tax certificate holder for1 the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time a business is required to maintain the project at a location in this State, subject to the bill's carryforward provisions. Under the bill, the tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, in the tax period for which it was issued, or in any of the next successive tax periods, subject to the bill's carryforward provisions. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, subject to the provisions in the bill, without the need to amend the return for the year for which the credit was issued.

Remaining Credit Availability

This bill adds a provision to current law, requiring that if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies, the authority certify the amount of remaining tax credits available for approval in that fiscal year. The bill requires that up to $100 million of unused tax credits from a prior fiscal year are to be made available to a New Jersey studio partner under certain circumstances. If the certified amount is less than $100 million, the authority is to approve the remainder, as available, from the unused Aspire Program and Emerge Program credits already available under current law. If there are insufficient funds, the authority is to approve the remainder instead from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.

Recapture of Tax Credits

Under current law, the approval of tax credits for New Jersey studio partners and New Jersey film-lease production companies is subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, the recapture of tax credits. The bill provides that the recapture of tax credits may only apply to the initial recipient of the tax credits, not the purchaser or assignee of a tax credit transfer certificate.

Current law also provides that if a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period, the authority is required to recapture certain portions of the tax credit. This bill instead

authorizes the authority to recapture certain portions of the tax credit in these instances. However, the bill also provides an exception to this recapture provision in any circumstance in which the New Jersey studio partner fails to occupy the production facility for any reason outside the control of the New Jersey studio partner. The bill includes similar exceptions for failure to occupy the required space for a New Jersey film-lease production or New Jersey film-lease post-production company.

Deferred Compensation

Under current law, a New Jersey studio partner that makes certain deferred compensation payments is permitted to file a supplemental report no later than two years after the date on which the production concludes. This bill modifies current law to permit the submission of a supplemental report no later than four years after the date on which the production concludes.

Additionally, the bill permits a New Jersey studio partner to include deferred compensation payments made directly to a bona fide labor union, including those payments for which tax was not withheld under the gross income tax, within qualified film production expenses, provided that the payments otherwise satisfy the requirements of the program.

Current law permits a New Jersey studio partner that incurs $25 million or more in qualified film production expenses in the State to include within "qualified film production expenses," in excess of amounts paid to highly compensated individuals, up to $72 million of certain wages or salaries. This bill additionally permits a New Jersey studio partner that incurs $125 million or more in qualified film production expenses in the State for the production of a feature film to include within "qualified film production expenses," in excess of the amounts paid to highly compensated individuals, amounts paid for scripts, and amounts paid or incurred for deferred compensation, to include up to $72 million of certain wages and salaries.

Expansion of Transferred Tax Credit Applicability

Under current law, tax credits awarded under the program may be applied against a taxpayer's liability under the gross income tax or corporation business tax. In addition, this bill authorizes the application of transferred credits against a taxpayer's liability for an insurance premium tax.

Credit for Diversity Plan

Under current law, a taxpayer who is eligible for tax credits under the program may receive an additional credit in an amount equal to two percent of the qualified film production expenses or four percent of the digital media content production expenses of the taxpayer during a tax period if: (1) the application is accompanied by a

diversity plan outlining specific goals, which may include advertising and recruitment actions, for hiring minority persons and women; (2) the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and (3) the director and the authority have verified that the applicant has met or made good faith efforts in achieving those goals.

Current law provides that a tax credit for four percent of qualified film production expenses may be available to a taxpayer, rather than two percent, if the diversity plan includes specific goals that include hiring persons as performers in the film who are: (1) women or members of a minority group; (2) residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and (3) members of a bona fide labor union representing film and television performers.

This bill removes the additional requirements necessary for a taxpayer to receive a four percent tax credit, rather than two percent, and increases the bonus credit for all eligible applicants. Under the bill, a taxpayer may earn a credit equal to four percent of qualified film production expenses for a diversity plan meeting the same criteria required for a credit equal to four percent of digital media content production expenses.

In addition, this bill requires, instead of a diversity plan for hiring minority persons and women, that an application for this additional credit be accompanied by a plan outlining specific goals, which may include advertising and recruitment actions, for hiring residents of an economically disadvantaged area in the State, a distressed municipality, or land owned by the federal government on or before December 31, 2005.

New Jersey Promotion and Support Credit

In addition to the amount of tax credits otherwise allowed under the program, the bill allows an additional promotional tax credit for certain film productions in an amount equal to four percent of a taxpayer's qualified film production expenses or qualified digital media content production expenses under certain conditions. Specifically, a New Jersey studio partner or New Jersey film lease production company may qualify for this additional credit by submitting, alongside an application to the authority and the Director of the Division of Taxation in the Department of the Treasury (director), a plan outlining specific goals to promote or invest in New Jersey. Under the bill, a taxpayer is required to include at least two promotional criteria in the plan, and the authority and director are required to verify that the taxpayer has met the goals outlined in its plan.

Specifically, a taxpayer is required to satisfy at least four of the following criteria to qualify for the additional promotional credit:

(1) the creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the Internet website promoting the film or in another form and manner approved by the authority;

(2) the creation of five public social media posts including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State;

(3) the placement of a New Jersey promotional logo provided by the authority for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations;

(4) the film is set, at least in part, in New Jersey, and the State is referenced in the film;

(5) support for a workforce development program established by the taxpayer with a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(6) a film industry recruiting program established by the taxpayer providing paid internships or entry level employment opportunities in film crew positions for New Jersey residents of an economically disadvantaged New Jersey area, a distressed municipality, or land owned by the federal government on or before December 31, 2005;

(7) the taxpayer engages at least five vendors authorized to do business in New Jersey, each of which employs at least one full-time employee at a physical location in an economically disadvantaged area in the State, a distressed municipality, or on land owned by the federal government on or before December 31, 2005; and

(8) any alternative criteria as the authority may provide.

Modification of Definitions

This bill amends the definition of "commitment period" for New Jersey studio partners under the program to be the period beginning with the commencement of the eligibility period and continuing for a minimum of 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term, as appropriate. Under current law, the commitment period expires 10 years following the issuance of a temporary certificate of occupancy or commencement of a lease term.

The bill also amends the definition of "eligibility period," in the case of a taxpayer leasing a production facility, to mean the period beginning at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not less than 10 years. Under current law, the term is limited to a maximum of 10 years.

The bill includes within the definition of "film," for a New Jersey studio partner, an ongoing television production that relocated to New Jersey and features news or current events, which may include sports themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a New Jersey studio partner facility that is leased or owned by the New Jersey studio partner. The bill also amends this definition so that a reality show that has obtained a minimum four-episode, rather than six-episode, order and otherwise meets the definition's requirements may be included in the definition of "film."

The bill amends the definition of "highly compensated individual" to remove a distinction under current law that, for New Jersey studio partners and New Jersey film-lease production companies, an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. Instead, for any taxpayer, the term means an individual who directly or indirectly receives compensation in excess of $750,000 for the performance of services used directly in a production.

The bill amends the definition of "New Jersey film-lease production company," in relevant part, to mean a taxpayer, including any taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and has oversight of operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, or has a material operational role in the production, which taxpayer meets additional requirements. Under current law, the term includes a taxpayer that is a member of a combined group or any other entity in which the film-lease production company has a material ownership interest and material operation role in the production, among additional requirements.

The bill further amends the definition of a "New Jersey film-lease production company" to include any other member of a taxpayer's combined group, any other entity in which the New Jersey film-lease production company has a material ownership interest, or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company: (1) controls such film or product during preproduction, production, and postproduction; or (2) controls distribution rights for the resulting film or other commercial audiovisual product, provided that the New Jersey film-lease production company contracted with the unrelated entity prior to qualified film production expenses being incurred. Under current law, this term includes an unrelated entity engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to

perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976."

The bill amends the definition of "qualified film production expenses" to include, for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, in a percentage proportional to the percentage or principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. These expenses are not permitted to exceed seven and one-half percent of "qualified film production expenses."

State Purchase of Tax Credits

Under current law, the director is permitted to purchase unused tax credits awarded under various economic development programs established under the "New Jersey Economic Recovery Act of 2020," including the Aspire Program and the Cultural Arts Incentives Program.

Under the bill, the director is required to purchase unused tax credits and tax credit transfer certificates awarded under the Aspire Program and the Cultural Arts Incentives Program in an amount equal to 85 percent of the value of the tax credit, provided that certain conditions are met. The bill also requires that the director purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program in an amount equal to 95 percent of the value of the tax credit, provided that certain conditions are met. In each case, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year prior to the date of application to the director.

Specifically, the bill requires the director to purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program valued at no more than a cumulative amount of $80 million in State fiscal year 2026, $160 million in State fiscal year 2027, $240 million in State fiscal year 2028, and $200 million in each State fiscal year thereafter, subject to certain conditions.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove a requirement under current law that, for a reality show: (a) at least 60 percent of the total film production expenses of the

taxpayer, exclusive of post-production costs, are incurred for services performed and goods purchased through vendors authorized to do business in New Jersey; and (b) the qualified film production expenses of the taxpayer during the privilege period for services performed and goods purchased through vendors authorized to do business in New Jersey exceed $1,000,000 per production. Instead, a reality show is required to meet only one of these requirements, as other films are required to under current law;

(2) remove a provision in the bill that, as introduced, would have created an additional incentive under the program for a television series that relocated to New Jersey;

(3) revise the additional tax credits available under the bill to be four percent, instead of four and one-half percent, for hiring residents from certain areas in the State and for promotion of this State. The amendments limit the aggregate additional amount of these additional tax credits to a total of five percent of the qualified film production expenses or qualified digital media content production expenses of the taxpayer incurred during a tax period. The amendments limit the total amount of tax credits permitted to a taxpayer under the program to 45 percent of the qualified film production expenses or qualified digital media content production expenses;

(4) clarify language concerning the ability of a taxpayer to use and carry forward tax credits awarded under the program;

(5) remove language from the bill that would have amended current law to adjust certain maximum cumulative total awards and additional discretionary awards under the program;

(6) clarify that provisions of the bill prohibiting recapture of tax credits for the failure to occupy the production facility for any reason outside the control of an entity are 1subject to any rules the authority may determine necessary to implement this provision, including, but not limited to, a definition of reasons outside the control of the entity;

(7) require that, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies, the authority certify the amount of remaining tax credits available for approval in that fiscal year. The amendments require that up to $100 million of unused tax credits from a prior fiscal year are to be made available to a New Jersey studio partner under certain circumstances. If the certified amount is less than $100 million, the authority is to approve the remainder, as available, from the unused Aspire Program and Emerge Program credits already available under current law. If there are insufficient funds, the authority is to approve the remainder instead from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies;

(8) amend the definition of "film" to provide that a reality show that has obtained a minimum four-episode order form and otherwise meets

the requirements of the bill may qualify as a "film." Current law requires a six-episode order form;

(9) amend the definition of "qualified film production expenses" to include, for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, in a percentage proportional to the percentage or principal photography shoot days in the State: total production insurance premiums paid to insurance companies doing business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total producer fees; and total rights fees. These expenses are not permitted to exceed seven and one-half percent of "qualified film production expenses";

(10) revise a provision in the bill that prohibits the authority from recapturing any tax credits within two years of the date of certain entities' lease, provided that certain conditions are met, to instead prohibit recapture within one year of that date and to permit the authority to extend that period for one additional year under the conditions outlined in the bill;

(11) add a provision to current law that a television series produced by a New Jersey film-lease company that satisfies the three year lease requirements under this paragraph and that commences principal photography in New Jersey prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy remains eligible to receive the tax credits only available to the film production company by virtue of the film production company's designation as a New Jersey film-lease production company, provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a New Jersey film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the New Jersey film-lease partner facility's receipt of a temporary or final certificate of occupancy;

(12) clarify that, among the criteria in the bill for additional tax credits for promoting New Jersey, an applicant may include support for a workforce development program established by the taxpayer with a college, including a community college, an apprentice program, or a university in this State, which program includes direct training or employment opportunities on the film for residents of this State;

(13) require that, to qualify for additional credit under the bill for promotion of or investment in New Jersey, a taxpayer is required to include at least four, rather than two, of the criteria outlined in the bill. The amendments eliminate a provision of the bill that, as introduced, would have provided an opportunity for more tax credits if four criteria were met, rather than two;

(14) authorize the creation of social media posts from an official account of a leading actor or actress in the film for the purpose of fulfilling the criteria for the creation of five public social media posts, as described in the bill, for the purpose of the additional credit for promotion of or investment in New Jersey;

(15) require the director to purchase unused tax credits and tax credit transfer certificates awarded under the film and digital media content production tax credit program valued at no more than a cumulative amount of $80 million in State fiscal year 2026, $160 million in State fiscal year 2027, $240 million in State fiscal year 2028, and $200 million in each State fiscal year thereafter, subject to certain conditions; and

(16) make technical changes.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5827
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 26, 2025

SUMMARY

Synopsis: Modifies certain requirements and award availability under film and digital media content production tax credit program.

Type of Impact: Annual State revenue reduction.

Agencies Affected: New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Revenue Reduction	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in indeterminate annual State revenue reductions, subject to maximum tax credit award caps across all program categories.

- The OLS notes that the actual fiscal impact will depend on application volume, project eligibility, and authority discretion in awarding credits.

BILL DESCRIPTION

The bill expands the film and digital media content production tax credit program administered by the New Jersey Economic Development Authority. Key provisions include extending program availability until July 1, 2050; restructuring tax credit percentages and award caps for New Jersey studio partners; creating additional tax credit categories for television series relocation, promotional activities, and economic development initiatives; expanding eligibility for certain post-production activities; and modifying recapture provisions and reporting requirements.

The bill establishes maximum annual tax credit award caps of: up to $550,000,000 for New Jersey studio partners; up to $400,000,000 for New Jersey film-lease production companies; up to $100,000,000 for other taxpayers; and up to $130,000,000 for digital media content production.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in indeterminate annual State revenue reductions, subject to maximum tax credit award caps across all program categories.

The bill maintains the existing maximum potential fiscal exposure for New Jersey studio partners at up to $550,000,000 annually, but restructures the allocation by increasing the base annual cap from $150,000,000 to $300,000,000 beginning in fiscal year 2026 while reducing discretionary awards from $400,000,000 to $250,000,000.

Maximum annual tax credit caps for other categories remain unchanged: up to $400,000,000 for New Jersey film-lease production companies consisting of $150,000,000 base plus $250,000,000 discretionary; up to $100,000,000 for other taxpayers; and up to $130,000,000 for digital media content production consisting of $30,000,000 base plus $100,000,000 discretionary.

The bill creates several new additional tax credit categories that operate within existing caps rather than establishing separate fiscal exposure. These include: television series relocation incentives providing up to 4.5 percent additional credits; promotional and investment credits providing up to 4.5 percent or 9.0 percent additional credits depending on criteria met; and enhanced economic development credits providing up to 4.5 percent additional credits for hiring residents of economically disadvantaged areas.

The 10-year program extension through fiscal year 2050 maintains long-term fiscal exposure at current maximum levels rather than allowing the program to expire in fiscal year 2040.

The OLS notes that actual annual fiscal impact will vary significantly based on application volume, project eligibility determinations, and the Economic Development Authority's discretion in awarding credits.

The OLS notes that while the bill may result in State revenue reductions through tax credit awards, the program can stimulate economic activity and job creation within New Jersey's film and digital media industries, which could generate offsetting State revenue through increased business activity, employment, and related tax collections. The net fiscal impact remains indeterminate due to the difficulty in quantifying the economic effects of the incentivized production activities.

Section:	*Revenue, Finance, and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Bills Gov Acted On

Posted on - 06/30/2025

The Governor has acted on the following bills:

BILL SIGNINGS:

S-4620/A-5879 (McKnight, Mukherji/McCann Stamato) - Amends Fiscal Year 2025 annual appropriations act to assign distribution of Old Courthouse asbestos remediation funding from Hudson County to Jersey City

S-2788wGR/A-4569 (Cruz-Perez, Turner/Freiman, Katz, Simmons) - Appropriates $128.241 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for farmland preservation purposes

A-5100/S-3991 (Rodriguez/Stack) - Re-appropriates unexpended balance of FY 2024 appropriation for Town of West New York to support recreation center; appropriates $3 million for Town of West New York – Recreation Center to restore lapsed FY 2024 funding

A-5807/S-4655 (Pintor Marin/Sarlo) - Makes FY2025 supplemental appropriations of $142,615,000; adds various language provisions to FY2025 Appropriations Act

A-5803/SCS for S-3064 (Bagolie/McKeon, Turner) - Modifies tax on certain forms of online gaming and wagering

ACS for A-4455/SCS for S-4503 (Freiman, Schaer, Karabinchak /Sarlo, Mukherji) - Allows exemption from New Jersey gross income of certain capital gains from sale or exchange of qualified small business stock

A-5805/SCS for S-4659 and 4661 (Venezia/Sarlo, Vitale) - Modifies tax rate on certain nicotine products

A-5804/S-4666 (Reynolds-Jackson/Wimberly) - Modifies payer of additional fees and taxes imposed on certain real property transfers; modifies fees and taxes imposed on property transfers valued over $2 million

A-5809/S-4656 (Murphy/Vitale) - “Healthcare Finance Enhancement Act”

S-3189/A-2365 (Zwicker, Sarlo/Tully, Murphy, DePhillips) - Makes various changes to "New Jersey Angel Investor Tax Credit Act" and Technology Business Tax Certificate Transfer Program; repeals "New Jersey Ignite Act"

S-4654/A-5878 (Scutari, A.M. Bucco/Schnall, Inganamort) - Provides for publication of required legal notices on government Internet websites and through certain online news publications

A-5801/S-4692 (Freiman/Sarlo) - Appropriates $247,128,000 from "New Jersey Debt Defeasance and Prevention Fund"; establishes process for authorizing future appropriations for debt defeasance and capital projects

(BUDGET BILL – w/Rev Cert. LIV, Summary)

BILL VETOED:

S-2026/A-5800 **(Sarlo/Pintor Marin, Park)** – **w/LINE ITEM** Appropriates $58,782,119,000 in State funds and $31,007,261,743 in federal funds for the State budget for fiscal year 2026

BILL SIGNINGS:

A-5810/S-4660 (Pintor Marin, Dolon, Bagolie/McKeon, McKnight) - Promotes equity in health insurance appeal process

S-4632/A-5812 (Scutari, Ruiz/Schaer) - Establishes grant program in DOE for public schools to purchase and install point-of-use filtered bottle-filling stations and filtered faucets

S-3618/A-4926 (Smith, Greenstein/Calabrese, Tully, Haider) - Directs DEP and DOT to establish "Wildlife Corridor Action Plan"

S-3933/A-5075 (Ruiz, McKnight/Swain, Morales, Bagolie) - Establishes School Supervisor Mentorship Pilot Program; appropriates $500,000

A-5077/S-4375 (Morales, Bagolie, Carter/Ruiz, Zwicker) - Extends statutory pause on collection of student growth objective data

A-5795/S-4619 (Pintor Marin, Freiman, Drulis/Zwicker) - Modifies certain provisions of “New Jersey Innovation Evergreen Act”

S-4618/A-5827 (Mukherji, Gopal/Pintor Marin, Peterpaul, Donlon) - Modifies certain requirements and award availability under film and digital media content production tax credit program

S-4122/A-5257 (Burzichelli/Stanley, Egan) - Revises apportionment of State lottery contributions

Governor Murphy Signs Legislation Strengthening the New Jersey Film and Digital Media Tax Credit Program

Posted on - 06/30/2025

TRENTON – Governor Phil Murphy today signed S4618/A5827, strengthening and enhancing provisions of the New Jersey Film and Digital Media Tax Credit Program.

The Film and Digital Media Tax Credit Program, administered by the New Jersey Economic Development Authority (NJEDA), provides eligible applicants a tax credit against the Corporation Business Tax and the Gross Income Tax for qualified expenses incurred during the production of certain film and digital media content in New Jersey.

"Our Film and Digital Media Tax Credit has been instrumental in attracting film and television production to New Jersey," **said Governor Phil Murphy**. "This program has helped create thousands of good-paying union jobs, showcased our one-of-a-kind geographic diversity, and reinforced New Jersey's reputation as a premier destination for film and television. With the help of Tim Sullivan and the entire NJEDA, we are cementing the future of entertainment here in the Garden State."

Following the revival of the program under the Murphy Administration, the tax credits have helped attract leading studios and top talent to the Garden State. In May, Governor Murphy and First Lady Tammy Murphy joined Netflix Co-CEO Ted Sarandos in Fort Monmouth to break ground on Netflix's highly anticipated East Coast production hub.

"New Jersey's location, diverse landscape, talent pool, and competitive incentive program has made the state a hotbed for film production over the past several years. With support from Governor Murphy and the New Jersey Legislature, our film industry continues to grow, with major productions and studios setting up shop in local communities," **said NJEDA Chief Executive Officer Tim Sullivan**. "The bill signed by Governor Murphy solidifies the State's long-term commitment to supporting the film industry, which will lead to major investments into small businesses and help create good-paying jobs for decades to come. New Jersey is the birthplace of film and we are building upon our legacy to become a national leader in the industry."

Today's legislation increases the amount of tax credits that may be awarded to a New Jersey studio partner from 35 percent to 40 percent of the taxpayer's qualified expenses that are incurred within a 30-mile radius of Columbus Circle in New York. It also doubles the diversity bonus credit from two percent to four percent of qualified expenses and eases the process for eligible applicants to receive the credit. Certain film productions will now also be eligible for an additional tax credit of four percent of qualified production expenses for promoting and investing in New Jersey's film industry.

The provisions of today's bill further incentivize film and television production in the Garden State, stimulating

local economies and creating good-paying jobs for New Jerseyans.

The primary sponsors of S4618/A5827 are Senators Raj Mukherji and Vin Gopal, and Assemblywomen Eliana Pintor Marin, Luanne Peterpaul, and Margie Donlon.

"This landmark legislation will allow for a once-in-a-generation, a multibillion dollar studio project in Hudson County and create thousands of permanent jobs," **said Senator Raj Mukherji**. "While prudent and unique among state film incentives in catalyzing long-term commitments to our state and billions in capital investment, these revisions to our film and TV tax credits will keep our program competitive and significantly boost our economy and small businesses. It's a transformational bill."

"Encouraging the film industry to continue to expand into our State will help employ thousands and thousands of our residents," **said Senator Vin Gopal**. "Film and digital media content production produces a wide range of jobs, from construction to extras to marketing and accounting positions. Local businesses like restaurants and coffee shops will also benefit greatly, with production often spilling into towns and other locations across New Jersey. This law will ultimately help celebrate our residents, as well as our rich history of filmmaking and entertainment."

"New Jersey's film and digital media content production tax credit program already has a proven track record of attracting top film and television talent and global production studios to our state," **said Assemblywoman Eliana Pintor Marin**. "Having film and digital media production in New Jersey means new jobs and economic boosts for our communities. This bill gives our media partners greater flexibility to create TV shows, movies and reality TV programming right here in the Garden State, by offering strong incentives like streamlined access to tax credits and a simpler path to creating diverse productions, all the while supporting our local economy."

"New Jersey's film and production industry continues to grow and we should do what we can to support digital media content," **said Assemblywomen Luanne Peterpaul and Margie Donlon**. "In our district, we are anticipating the opening of the new Netflix studios in Monmouth County, which will generate new jobs and boost the local economy. Netflix's decision to invest in New Jersey is a sign that our state has rolled out the red carpet for TV and movie producers, and tax credits like these will help entice other media companies to the Garden State."

Governor Murphy Signs Fiscal Year 2026 Budget into Law

Posted on - 06/30/2025

Budget Builds on Governor Murphy's Historic Record of Fiscal Responsibility – With a $6.7 Billion Surplus to Help Weather Future Financial Challenges Compared to Just $409 Million Surplus Inherited in 2018

Budget Provides An All-Time High Level of Property Tax Relief, the Highest Level of School Funding in History, and a Fifth Consecutive Full Pension Payment

Budget Makes Historic Investments in Women's Health Care and Provides Funding to Fully Modernize NJ TRANSIT's Fleet

TRENTON – Governor Phil Murphy today signed into law the Fiscal Year 2026 Appropriations Act, marking a culmination of the Murphy Administration's longstanding commitment to fiscal responsibility, affordability, and opportunity. Over nine budgets spanning nearly eight years in office, Governor Murphy has presided over sustained economic growth while making long overdue investments in addressing the needs of working New Jerseyans, from property tax relief, to school funding, to restoring funding for the State's pension systems.

The $58.78 billion Fiscal Year 2026 (FY2026) budget, which was passed by the Legislature earlier today, redirects over 75 percent of the total budget back into our communities in the form of grants-in-aid for property tax relief, social services, higher education, as well as State aid to schools, municipalities, and counties. The budget includes an all-time high level of direct property tax relief for homeowners and renters, yields the highest level of school funding in history, and delivers a fifth consecutive full pension payment. It also prioritizes quality health services for women and families, and it invests in beginning to fully modernize NJ TRANSIT's fleet.

Upon taking office, Governor Murphy inherited a $409 million surplus from his predecessor. Eight years later, the Governor will leave his successor with a surplus 16 times greater than that amount—$6.7 billion.

"This budget exemplifies our dedication to fiscal responsibility, affordability, and opportunity for all New Jerseyans," **said Governor Murphy**. "Over nearly eight years in office, we have maintained a steadfast commitment to building a stronger and fairer New Jersey and righting our fiscal ship. I'm proud that this budget caps off an eight-year journey to turn our state around and delivers greater economic security and opportunity to every family. With the help of our legislative partners, we are moving New Jersey toward a brighter future for every child, student, worker, parent, and senior citizen who calls our great state home."

"The budget upholds our administration's promise to make sure that New Jersey remains the best state in the nation to live, work, raise a family, and retire," **said Lieutenant Governor Tahesha Way**. "Over the past seven and a half years, we have made historic strides in making our state more affordable for hardworking residents and families through expanded tax relief and major investments in affordable housing, social services, and

education. This state budget is a direct result of the strong collaboration between Governor Murphy, Treasurer Muoio, and legislative leadership."

"This budget is the culmination of a nearly eight-year effort to improve conditions for all New Jerseyans, building a fiscally stronger state that is more affordable for all," **said State Treasurer Elizabeth Maher Muoio**. "As always, this budget could not have been completed without the hard work of my staff at the Department of the Treasury and particularly the folks at the Office of Management and Budget and the Office of Revenue and Economic Analysis. I want to thank all of them for their tireless work, dedication, and exemplary professionalism over the past seven and a half years."

"This is a fiscally responsible budget that puts New Jersey families first. At a time when working people are being left behind by misguided decisions in Washington, we're making smart, strategic investments that deliver meaningful support, especially through historic property tax reductions, strong funding for public education, higher education, healthcare, transit, and a full pension payment," **said Senate President Nick Scutari, Senate Majority Leader M. Teresa Ruiz and Senator Paul Sarlo, Chair of the Senate Budget Committee**. "We're grateful to Governor Murphy and our colleagues in the Legislature for coming together to enact a disciplined, forward-looking budget that safeguards essential services, expands opportunity, and reinforces New Jersey's long-term fiscal strength."

Fiscal Responsibility
The budget once again provides a full payment to the pension systems. This year's $7.2 billion payment marks the fifth year in a row Governor Murphy has fully funded the systems. Total pension contributions by the Murphy Administration are on track to exceed $47 billion – nearly four times the $12.2 billion in total contributions of the previous six governors combined.

With an eye toward ensuring New Jersey remains prepared for the future, this budget provides a surplus of $6.7 billion, more than ten times larger than the average surplus under the previous administration.

Additionally, the budget includes $788 million in funding from the Corporate Transit Fee dedicated to support NJ TRANSIT and builds upon $1.358 billion in interest saved by taxpayers over the last four years by paying down debt and minimizing new debt taken on.

The budget also includes several tax policy changes, including increases for the highest tier of realty transfer fees, sports betting, and cigarettes and vaping, as well as a new exemption for small business investment and reforms to the Angel Investor Tax Credit.

These changes, along with the cuts in appropriations, help ensure that revenues are more closely in line with expenditures.

Affordability and Economic Security
Continuing efforts to make New Jersey affordable for all, this budget includes nearly $4.3 billion in direct property tax relief for New Jersey homeowners and renters, including $2.4 billion for the continuation of the popular ANCHOR program, which last year delivered more than $2.2 billion in property tax relief to nearly two million residents. The budget also continues the Senior Freeze program, with a $239 million allocation to benefit more than 235,000 taxpayers.

The budget also includes additional funding for the landmark Stay NJ program, allocating $600 million in

resources to significantly reduce property taxes for more than 432,000 senior homeowners. Stay NJ is expected to launch for the 2025 tax season and will reimburse eligible seniors for up to 50 percent of their property tax bills.

Continuing the focus on making the state more affordable for working and middle-class families, the budget maintains recent expansions of the Earned Income Tax Credit, the Child and Dependent Care Tax Credit, and the Child Tax Credit.

The tax relief included in this budget brings the total relief provided by the Murphy Administration and our partners in the Legislature to more than double any prior administration.

Continuing efforts to provide quality health services for all, a top priority of this administration, the budget includes $165 million for the continuation of Cover All Kids; $55.4 million for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) and Senior Gold programs, helping more than 149,000 seniors and residents with disabilities; $52 million for family planning services and reproductive health programs; and $35.8 million for Family Connects NJ, which has provided nearly 2,500 free in-home nurse visits to families with newborns and is now available in 11 counties; and $52 million for family planning services and reproductive health programs.

The proposal also includes $10 million for a new initiative to provide State employees with full pay while they take family leave to care for a newborn, adopted, or fostered child.

Supporting the Next Generation of New Jerseyans

Last year, Governor Murphy became the first Governor to fully fund the K-12 school funding formula. This budget builds on that commitment, providing record-high school funding in FY2026. The budget includes a record $12.1 billion for K-12 schools, a nearly $4 billion increase since FY2018. This budget also addresses feedback from school districts by capping losses in major school aid categories and reducing input volatility, ensuring no district sees a steep reduction in aid from one year to the next. A district's K-12 State aid will not decrease by an amount greater than 3% of the prior year's State aid in the four primary categories: equalization, special education, security, and transportation.

The budget also proposes $7.5 million in new grant funding to support districts in providing high-impact tutoring to students in need of extra academic support, as well as $3 million in incentive grants for schools that want to go entirely phone-free, giving students the best opportunity to learn without distraction.

Continuing the push for universal pre-school throughout New Jersey, the FY2026 budget proposes $1.27 billion for Preschool Education Aid. Since 2018, the Murphy Administration has expanded pre-K to 229 school districts and created nearly 20,000 new seats.

Building New Jersey's Future

In an effort to fortify our transportation infrastructure, this budget includes $1.23 billion for critical investments in State and local highway and bridge projects, and another $767 million for NJ TRANSIT to begin to fully modernize its fleet.

To ensure stability and future success for New Jersey's institutions of higher education, this budget provides $755.2 million in institutional support for State colleges and universities, as well as $169.1 million for county colleges and $8.6 million for independent institutions of higher education in New Jersey. This totals $932.9 million, a nearly 50% increase over the $629.6 million in funding provided in FY2018.

The budget agreement also provides for $250 million in bonding for capital grants to higher education institutions. This builds on the $400 million in capital grants announced in 2023.

The budget also sets aside $222 million from the Debt Defeasance and Prevention Fund for a critical investment in the construction of a new correctional facility to replace the Edna Mahan Correctional Facility for Women.

An additional one-page policy summary on the central commitments of the FY2026 budget can be found online here.

Governor Murphy signed the Appropriations Act into law today:

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Line Item Veto Message

Line Item Veto Summary

Revenue Certification

In addition to the Appropriations Act, Governor Murphy also signed the following bills into law today:

S-4620/A-5879 (McKnight, Mukherji/McCann Stamato) - Amends Fiscal Year 2025 annual appropriations act to assign distribution of Old Courthouse asbestos remediation funding from Hudson County to Jersey City

S-2788wGR/A-4569 (Cruz-Perez, Turner/Freiman, Katz, Simmons) - Appropriates $128.241 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for farmland preservation purposes

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