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P.L. 2021, CHAPTER 367, *approved January 12, 2022*
Senate, No. 4094 (*Second Reprint*)

1 AN ACT concerning gross income and corporation business tax
2 credits for qualified film and digital media content production
3 expenses and amending P.L.2018, c.56.

4

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

7

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

10 1. a. (1) A taxpayer, upon approval of an application to the
11 authority and the director, shall be allowed a credit against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
13 an amount equal to 35 percent of the qualified film production
14 expenses of the taxpayer during a privilege period commencing on
15 or after July 1, 2018 but before July 1, 2034, provided that:

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

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

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

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

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

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:

¹Senate SBA committee amendments adopted December 16, 2021.

²Assembly floor amendments adopted January 10, 2022.

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

12 b. (1) A taxpayer, upon approval of an application to the
13 authority and the director, shall be allowed a credit against the tax
14 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
15 an amount equal to: **[20]** 30 percent of the qualified digital media
16 content production expenses of the taxpayer during a privilege
17 period commencing on or after July 1, 2018 but before July 1, 2034,
18 provided that:

19 (a) at least \$2,000,000 of the total digital media content
20 production expenses of the taxpayer are incurred for services
21 performed, and goods purchased through vendors authorized to do
22 business, in New Jersey;

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

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

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

32 (2) Notwithstanding the provisions of paragraph (1) of
33 subsection b. of this section to the contrary, the tax credit allowed
34 pursuant to this subsection against the tax imposed pursuant to
35 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
36 equal to **[25]** 35 percent of the qualified digital media content
37 production expenses of the taxpayer during a privilege period that
38 are incurred for services performed and tangible personal property
39 purchased through vendors whose primary place of business is
40 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
41 Gloucester, Mercer, or Salem County.

42 c. No tax credit shall be allowed pursuant to this section for
43 any costs or expenses included in the calculation of any other tax
44 credit or exemption granted pursuant to a claim made on a tax
45 return filed with the director, or included in the calculation of an
46 award of business assistance or incentive, for a period of time that
47 coincides with the privilege period for which a tax credit authorized

1 pursuant to this section is allowed. The order of priority in which
2 the tax credit allowed pursuant to this section and any other tax
3 credits allowed by law may be taken shall be as prescribed by the
4 director. The amount of the tax credit applied under this section
5 against the tax imposed pursuant to section 5 of P.L.1945, c.162
6 (C.54:10A-5), for a privilege period, when taken together with any
7 other payments, credits, deductions, and adjustments allowed by
8 law shall not reduce the tax liability of the taxpayer to an amount
9 less than the statutory minimum provided in subsection (e) of
10 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
11 credit otherwise allowable under this section which cannot be
12 applied for the privilege period due to the limitations of this
13 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
14 1 et seq.) may be carried forward, if necessary, to the seven
15 privilege periods following the privilege period for which the tax
16 credit was allowed.

17 d. A taxpayer, with an application for a tax credit provided for
18 in subsection a. or subsection b. of this section, may apply to the
19 authority and the director for a tax credit transfer certificate in lieu
20 of the taxpayer being allowed any amount of the tax credit against
21 the tax liability of the taxpayer. The tax credit transfer certificate,
22 upon receipt thereof by the taxpayer from the authority and the
23 director, may be sold or assigned, in full or in part, to any other
24 taxpayer that may have a tax liability under the "Corporation
25 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
26 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
27 exchange for private financial assistance to be provided by the
28 purchaser or assignee to the taxpayer that has applied for and been
29 granted the tax credit. The tax credit transfer certificate provided to
30 the taxpayer shall include a statement waiving the taxpayer's right
31 to claim that amount of the tax credit against the tax imposed
32 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
33 taxpayer has elected to sell or assign. The sale or assignment of any
34 amount of a tax credit transfer certificate allowed under this section
35 shall not be exchanged for consideration received by the taxpayer of
36 less than 75 percent of the transferred tax credit amount. Any
37 amount of a tax credit transfer certificate used by a purchaser or
38 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
39 et seq.) shall be subject to the same limitations and conditions that
40 apply to the use of a tax credit pursuant to subsection c. of this
41 section. Any amount of a tax credit transfer certificate obtained by
42 a purchaser or assignee under subsection a. or subsection b. of this
43 section may be applied against the purchaser's or assignee's tax
44 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
45 same limitations and conditions that apply to the use of a credit
46 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
47 (C.54A:4-12b).

1 e. (1) The value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this
4 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
5 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners
6 and New Jersey film-lease partners, shall not exceed a cumulative
7 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
8 thereafter prior to fiscal year 2035 to apply against the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
10 imposed pursuant to the "New Jersey Gross Income Tax Act,"
11 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
12 the value of tax credits approved by the director for New Jersey
13 film-lease partners and the \$100,000,000 limitation on the value of
14 tax credits approved by the director for other taxpayers imposed by
15 this paragraph, the value of tax credits, including tax credits
16 allowed through the granting of tax credit transfer certificates,
17 approved by the director and the authority pursuant to subsection a.
18 of this section and pursuant to subsection a. of section 2 of
19 P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall
20 not exceed a cumulative total of \$100,000,000 in fiscal year 2021
21 and in each fiscal year thereafter prior to fiscal year 2034 to apply
22 against the tax imposed pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
24 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
25 year 2025, in addition to the \$100,000,000 made available for New
26 Jersey studio partners pursuant to this paragraph, up to an additional
27 \$350,000,000 may be made available annually, in the discretion of
28 the authority, to New Jersey studio partners for the award of tax
29 credits, including tax credits allowed through the granting of tax
30 credit transfer certificates, pursuant to subsection a. of this section
31 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
32 from the funds made available pursuant to subparagraph (i) of
33 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
34 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
35 value of tax credits approved by the director for New Jersey studio
36 partners and the \$100,000,000 limitation on the value of tax credits
37 approved by the director for other taxpayers imposed by this
38 paragraph, the value of tax credits, including tax credits allowed
39 through the granting of tax credit transfer certificates, approved by
40 the director and the authority pursuant to subsection a. of this
41 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
42 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a
43 cumulative total of \$100,000,000 in fiscal year 2021 and in each
44 fiscal year thereafter prior to fiscal year 2034 to apply against the
45 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
46 and the tax imposed pursuant to the "New Jersey Gross Income Tax
47 Act," N.J.S.54A:1-1 et seq. ¹Beginning in fiscal year 2025, in

1 addition to the \$100,000,000 made available for New Jersey film-
2 lease partners pursuant to this paragraph, up to an additional
3 \$100,000,000 may be made available annually, in the discretion of
4 the authority, to New Jersey film-lease partners for the award of tax
5 credits, including tax credits allowed through the granting of tax
6 credit transfer certificates, pursuant to subsection a. of this section
7 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
8 from the funds made available pursuant to subparagraph (i) of
9 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
10 (C.34:1B-362).¹ Approvals made to New Jersey studio partners and
11 New Jersey film-lease partners shall be subject to award agreements
12 with the authority detailing obligations of the awardee and
13 outcomes relating to events of default, including, but not limited to,
14 recapture, forfeiture, and termination. If in any privilege period,
15 beginning following a date determined by the authority, a New
16 Jersey film-lease partner's annual average of qualified film
17 production expenses falls below \$50,000,000, the authority shall
18 reduce by 20 percent any tax credit award for a film for which final
19 documentation ¹ [pursuant to N.J.A.C.19:31-21.7(c)]¹ has been
20 submitted, until a privilege period when the annual average of
21 qualified film production expenses has been restored to
22 \$50,000,000. The authority shall establish a non-binding,
23 administrative pre-certification process for potentially eligible
24 projects.

25 【If the cumulative total amount of tax credits, and tax credit
26 transfer certificates, allowed to taxpayers for privilege periods or
27 taxable years commencing during a single fiscal year under
28 subsection a. of this section and subsection a. of section 2 of
29 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
30 available in that fiscal year, then taxpayers who have first applied
31 for and have not been allowed a tax credit or tax credit transfer
32 certificate amount for that reason shall be allowed, in the order in
33 which they have submitted an application, the amount of tax credit
34 or tax credit transfer certificate on the first day of the next
35 succeeding fiscal year in which tax credits and tax credit transfer
36 certificates under subsection a. of this section and subsection a. of
37 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
38 amount of credits】¹ 【Notwithstanding the limitations set forth in
39 this paragraph, if in any fiscal year the authority receives
40 applications for tax credits under subsection a. of this section and
41 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in
42 amounts exceeding the total amount of tax credits available for the
43 fiscal year, then the authority may approve applications, in the order
44 in which such applications were submitted, for excess tax credits
45 during the year in which the application was submitted, provided
46 that the amount of excess credits shall be subtracted from the total

1 amounts allowed for the next following fiscal year in which credits
2 are available, and provided further that the taxpayer shall not claim
3 the excess tax credit or tax credit transfer certificate until the first
4 day of the fiscal year from which the credits were made.] If the
5 cumulative total amount of tax credits, and tax credit transfer
6 certificates, allowed to taxpayers for privilege periods or taxable
7 years commencing during a single fiscal year under subsection a. of
8 this section and subsection a. of section 2 of P.L.2018, c.56
9 (C.54A:4-12b) exceeds the amount of tax credits available in that
10 fiscal year, then taxpayers who have first applied for and have not
11 been allowed a tax credit or tax credit transfer certificate amount for
12 that reason shall be allowed, in the order in which they have
13 submitted an application, the amount of tax credit or tax credit
14 transfer certificate on the first day of the next succeeding fiscal year
15 in which tax credits and tax credit transfer certificates under
16 subsection a. of this section and subsection a. of section 2 of
17 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
18 credits¹ available.

19 Notwithstanding any provision of ¹this¹ paragraph ¹[(1) of this
20 subsection]¹ to the contrary, for any fiscal year in which the
21 amount of tax credits approved ¹to New Jersey studio partners, New
22 Jersey film-lease partners, or taxpayers other than New Jersey
23 studio partners and New Jersey film-lease partners¹ pursuant to this
24 paragraph is less than the cumulative total amount of tax credits
25 permitted to be approved ¹to each such category,¹ in that fiscal
26 year, the authority shall certify the amount of the remaining tax
27 credits available for approval ¹to each such category¹ in that fiscal
28 year, and shall increase the cumulative total amount of tax credits
29 permitted to be approved for New Jersey studio partners ¹, New
30 Jersey film-lease partners, or taxpayers other than New Jersey
31 studio partners and New Jersey film-lease partners¹ in the
32 subsequent fiscal year by the certified amount remaining ¹for each
33 such category¹ from the prior fiscal year. The authority shall also
34 certify, for each fiscal year, the amount of tax credits that were
35 previously approved, but that the taxpayer is not able to redeem or
36 transfer to another taxpayer under this section, and shall increase
37 the cumulative total amount of tax credits permitted to be approved
38 for New Jersey studio partners ¹, New Jersey film-lease partners, or
39 taxpayers other than New Jersey studio partners and New Jersey
40 film-lease partners¹ in the subsequent fiscal year by the amount of
41 tax credits previously approved ¹for each such category¹, but not
42 subject to redemption or transfer. ¹In each fiscal year in which tax
43 credits remain unapproved for, or unredeemed or not transferred by,
44 New Jersey film-lease partners or taxpayers other than New Jersey
45 studio partners and New Jersey film-lease partners, the authority

1 may reallocate some or all of such remaining tax credits in the
2 subsequent fiscal year between the category of New Jersey film-
3 lease partners and the category of taxpayers other than New Jersey
4 studio partners and New Jersey film-lease partners in lieu of
5 increasing the tax credits available for the respective category by
6 the amount reallocated.¹

7 (2) The value of tax credits, including tax credits allowed
8 through the granting of tax credit transfer certificates, approved by
9 the authority and the director pursuant to subsection b. of this
10 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
11 (C.54A:4-12b) shall not exceed a cumulative total of **[\$10,000,000]**
12 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
13 prior to fiscal year 2035 to apply against the tax imposed pursuant
14 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
15 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq.

17 **【**If the total amount of tax credits and tax credit transfer
18 certificates allowed to taxpayers for privilege periods or taxable
19 years commencing during a single fiscal year under subsection b. of
20 this section and subsection b. of section 2 of P.L.2018, c.56
21 (C.54A:4-12.b) exceeds the amount of tax credits available in that
22 year, then taxpayers who have first applied for and have not been
23 allowed a tax credit or tax credit transfer certificate amount for that
24 reason shall be allowed, in the order in which they have submitted
25 an application, the amount of tax credit or tax credit transfer
26 certificate on the first day of the next succeeding fiscal year in
27 which tax credits and tax credit transfer certificates under
28 subsection b. of this section and subsection b. of section 2 of
29 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
30 credits **】**¹【Notwithstanding the limitations set forth in this
31 paragraph, if in any fiscal year the authority receives applications
32 for tax credits under subsection b. of this section and subsection b.
33 of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
34 the total amount of tax credits available for the fiscal year, then the
35 authority may approve applications, in the order in which such
36 applications were submitted, for excess tax credits during the year
37 in which the application was submitted, provided that the amount of
38 excess credits shall be subtracted from the total amounts allowed
39 for the next following fiscal year in which credits are available, and
40 provided further that the taxpayer shall not claim the excess tax
41 credit or tax credit transfer certificate until the first day of the fiscal
42 year from which the credits were made】 **】** If the total amount of tax
43 credits and tax credit transfer certificates allowed to taxpayers for
44 privilege periods or taxable years commencing during a single fiscal
45 year under subsection b. of this section and subsection b. of section
46 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax

1 credits available in that year, then taxpayers who have first applied
2 for and have not been allowed a tax credit or tax credit transfer
3 certificate amount for that reason shall be allowed, in the order in
4 which they have submitted an application, the amount of tax credit
5 or tax credit transfer certificate on the first day of the next
6 succeeding fiscal year in which tax credits and tax credit transfer
7 certificates under subsection b. of this section and subsection b. of
8 section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the
9 amount of credits¹ available.

10 Notwithstanding any provision of this paragraph to the contrary,
11 for any fiscal year in which the amount of tax credits approved
12 pursuant to this paragraph is less than the cumulative total amount
13 of tax credits permitted to be approved in that fiscal year, the
14 authority shall certify the amount of the remaining tax credits
15 available for approval in that fiscal year, and shall increase the
16 cumulative total amount of tax credits permitted to be approved in
17 the subsequent fiscal year by the certified amount remaining from
18 the prior fiscal year. The authority shall also certify, for each fiscal
19 year, the amount of tax credits that were previously approved, but
20 that the taxpayer is not able to redeem or transfer to another
21 taxpayer under this section, and shall increase the cumulative total
22 amount of tax credits permitted to be approved in the subsequent
23 fiscal year by the amount of tax credits previously approved, but not
24 subject to redemption or transfer.

25 f. A taxpayer shall submit to the authority and the director a
26 report prepared by an independent certified public accountant
27 licensed in this State to verify the taxpayer's tax credit claim
28 following the completion of the production. The report shall be
29 prepared by the independent certified public accountant pursuant to
30 agreed upon procedures prescribed by the authority and the director,
31 and shall include such information and documentation as shall be
32 determined to be necessary by the authority and the director to
33 substantiate the qualified film production expenses or the qualified
34 digital media content production expenses of the taxpayer. A single
35 report with attachments deemed necessary by the authority shall be
36 submitted electronically. Upon receipt of the report, the authority
37 and the director shall review the findings of the independent
38 certified public accountant's report, and shall make a determination
39 as to the qualified film production expenses or the qualified digital
40 media content production expenses of the taxpayer. The authority's
41 and the director's review shall include, but shall not be limited to: a
42 review of all non-payroll qualified film production expense items
43 and non-payroll digital media content production expense items
44 over \$20,000; a review of 100 randomly selected non-payroll
45 qualified film production expense items and non-payroll digital
46 media content production expense items that are greater than
47 \$2,500, but less than \$20,000; a review of 100 randomly selected

1 non-payroll qualified film production expense items and non-
2 payroll digital media content production expense items that are less
3 than \$2,500; a review of the qualified wages for the 15 employees,
4 independent contractors, or loan-out companies with the highest
5 qualified wages; and a review of the qualified wages for 35
6 randomly selected employees, independent contractors, or loan-out
7 companies with qualified wages other than the 15 employees,
8 independent contractors, or loan-out companies with the highest
9 qualified wages. The taxpayer's qualified film production expenses
10 and digital media content production expenses shall be adjusted
11 based on any discrepancies identified for the reviewed non-payroll
12 qualified film production expense items, non-payroll digital media
13 content production expense items and qualified wages. The
14 taxpayer's qualified film production expenses and digital media
15 content production expenses also shall be adjusted based on the
16 projection of any discrepancies identified based on the review of
17 randomly selected expense items or wages pursuant to this
18 subsection to the extent that the discrepancies exceed one percent of
19 the total reviewed non-payroll qualified film production expense
20 items, non-payroll digital media content production expense items,
21 or qualified wages. The determination shall be provided in writing
22 to the taxpayer, and a copy of the written determination shall be
23 included in the filing of a return that includes a claim for a tax
24 credit allowed pursuant to this section.

25 g. A taxpayer shall withhold from each payment to a loan out
26 company or to an independent contractor an amount equal to 6.37
27 percent of the payment otherwise due. The amounts withheld shall
28 be deemed to be withholding of liability pursuant to the "New
29 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
30 taxpayer shall be deemed to have the rights, duties, and
31 responsibilities of an employer pursuant to chapter 7 of Title 54A of
32 the New Jersey Statutes. The director shall allocate the amounts
33 withheld for a taxable year to the accounts of the individuals who
34 are employees of a loan out company in proportion to the
35 employee's payment by the loan out company in connection with a
36 trade, profession, or occupation carried on in this State or for the
37 rendition of personal services performed in this State during the
38 taxable year. A loan out company that reports its payments to
39 employees in connection with a trade, profession, or occupation
40 carried on in this State or for the rendition of personal services
41 performed in this State during a taxable year shall be relieved of its
42 duties and responsibilities as an employer pursuant to chapter 7 of
43 Title 54A of the New Jersey Statutes for the taxable year for any
44 payments relating to the payments on which the taxpayer withheld.

45 h. As used in this section:

46 "Authority" means the New Jersey Economic Development
47 Authority.

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

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

6 "Digital media content" means any data or information that is
7 produced in digital form, including data or information created in
8 analog form but reformatted in digital form, text, graphics,
9 photographs, animation, sound, and video content. "Digital media
10 content" shall not mean content offerings generated by the end user
11 (including postings on electronic bulletin boards and chat rooms);
12 content offerings comprised primarily of local news, events,
13 weather, or local market reports; public service content; electronic
14 commerce platforms (such as retail and wholesale websites);
15 websites or content offerings that contain obscene material as
16 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
17 content that are produced or maintained primarily for private,
18 industrial, corporate, or institutional purposes; or digital media
19 content acquired or licensed by the taxpayer for distribution or
20 incorporation into the taxpayer's digital media content.

21 "Film" means a feature film, a television series, or a television
22 show of 22 minutes or more in length, intended for a national
23 audience, or a television series or a television show of 22 minutes
24 or more in length intended for a national or regional audience,
25 including, but not limited to, a game show, award show, or other
26 gala event filmed and produced at a nonprofit arts and cultural
27 venue receiving State funding. "Film" shall not include a
28 production featuring news, current events, weather, and market
29 reports or public programming, talk show, or sports event, a
30 production that solicits funds, a production containing obscene
31 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
32 production primarily for private, industrial, corporate, or
33 institutional purposes, or a reality show, except if the production
34 company of the reality show owns, leases, or otherwise occupies a
35 production facility of no less than 20,000 square feet of real
36 property for a minimum term of 24 months, and invests no less than
37 \$3,000,000 in such a facility within a designated enterprise zone
38 established pursuant to the "New Jersey Urban Enterprise Zones
39 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
40 business district established pursuant to section 3 of P.L.2001,
41 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
42 other gala event that is not filmed and produced at a nonprofit arts
43 and cultural venue receiving State funding.

44 "Full-time or full-time equivalent employee" means an individual
45 employed by the taxpayer for consideration for at least 35 hours a
46 week, or who renders any other standard of service generally
47 accepted by custom or practice as full-time or full-time equivalent

1 employment, whose wages are subject to withholding as provided in
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
3 who is a partner of a taxpayer, who works for the partnership for at
4 least 35 hours a week, or who renders any other standard of service
5 generally accepted by custom or practice as full-time or full-time
6 equivalent employment, and whose distributive share of income,
7 gain, loss, or deduction, or whose guaranteed payments, or any
8 combination thereof, is subject to the payment of estimated taxes, as
9 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
10 et seq. "Full-time or full-time equivalent employee" shall not
11 include an individual who works as an independent contractor or on
12 a consulting basis for the taxpayer.

13 "Highly compensated individual" means an individual who
14 directly or indirectly receives compensation in excess of \$500,000
15 for the performance of services used directly in a production. An
16 individual receives compensation indirectly when the taxpayer pays
17 a loan out company that, in turn, pays the individual for the
18 performance of services.

19 "Incurred in New Jersey" means, for any application submitted
20 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
21 pursuant to which a tax credit has not been allowed prior to the
22 effective date of P.L.2021, c.160, service performed within New
23 Jersey and tangible personal property used or consumed in New
24 Jersey. A service is performed in New Jersey to the extent that the
25 individual performing the service is physically located in New
26 Jersey while performing the service. Notwithstanding where the
27 property is delivered or acquired, rented tangible property is used or
28 consumed in New Jersey to the extent that the property is located in
29 New Jersey during its use or consumption and is rented from a
30 vendor authorized to do business in New Jersey or the film
31 production company provides to the authority the vendor's
32 information in a form and manner prescribed by the authority.
33 Purchased tangible property is not used and consumed in New
34 Jersey unless it is purchased from a vendor authorized to do
35 business in New Jersey and is delivered to or acquired within New
36 Jersey; provided, however, that if a production is also located in
37 another jurisdiction, the purchased tangible property is used and
38 consumed in New Jersey if the acquisition and delivery of
39 purchased tangible property is located in either New Jersey or
40 another jurisdiction where the production takes place.

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

45 "Loan out company" means a personal service corporation or
46 other entity that is contracted with by the taxpayer to provide
47 specified individual personnel, such as artists, crew, actors,

1 producers, or directors for the performance of services used directly
2 in a production. "Loan out company" shall not include entities
3 contracted with by the taxpayer to provide goods or ancillary
4 contractor services such as catering, construction, trailers,
5 equipment, or transportation.

6 "New Jersey film-lease partner" means a taxpayer, including any
7 taxpayer that is a member of a combined group under P.L.2018,
8 c.131 (C.54:10A-4.11), that has made a commitment to lease or
9 acquire all or part of a New Jersey production facility **【with】** ,
10 which leased or acquired space shall have an aggregate square
11 footage of at least 50,000 square feet, **【which includes】** including a
12 sound stage and production support space, such as production
13 offices or a backlot, for a period of five or more successive years
14 and commits to spend, on a separate-entity basis or in the aggregate
15 with other members of the taxpayer's combined group, an annual
16 average of \$50,000,000 of qualified film production expenses over
17 the period of at least five but not to exceed 10 years.

18 "New Jersey studio partner" means a film production company
19 that has made a commitment to produce films or commercial
20 audiovisual products in New Jersey and has developed, purchased,
21 or executed a 10-year contract to lease a production facility of
22 250,000 square feet or more ¹**【as a "transformative project"**
23 **pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333)】¹**. No
24 more than three film production companies may be designated as a
25 New Jersey studio partner.

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

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

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

37 "Qualified digital media content production expenses" means an
38 expense incurred in New Jersey for the production of digital media
39 content. "Qualified digital media content production expenses"
40 shall include but not be limited to: wages and salaries of individuals
41 employed in the production of digital media content on which the
42 tax imposed by the "New Jersey Gross Income Tax Act,"
43 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
44 computer software and hardware, data processing, visualization
45 technologies, sound synchronization, editing, and the rental of
46 facilities and equipment. Payment made to a loan out company or

1 to an independent contractor shall not be deemed a "qualified digital
2 media content production expense" unless the payment is made in
3 connection with a trade, profession, or occupation carried on in this
4 State or for the rendition of personal services performed in this
5 State and the taxpayer has made the withholding required pursuant
6 to subsection g. of this section. "Qualified digital media content
7 production expenses" shall not include expenses incurred in
8 marketing, promotion, or advertising digital media or other costs
9 not directly related to the production of digital media content.
10 Costs related to the acquisition or licensing of digital media content
11 by the taxpayer for distribution or incorporation into the taxpayer's
12 digital media content shall not be deemed "qualified digital media
13 content production expenses."

14 "Qualified film production expenses" means an expense incurred
15 in New Jersey for the production of a film including pre-production
16 costs and post-production costs incurred in New Jersey. "Qualified
17 film production expenses" shall include but not be limited to:
18 wages and salaries of individuals employed in the production of a
19 film on which the tax imposed by the "New Jersey Gross Income
20 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
21 costs for tangible personal property used, and services performed,
22 directly and exclusively in the production of a film, such as
23 expenditures for film production facilities, props, makeup,
24 wardrobe, film processing, camera, sound recording, set
25 construction, lighting, shooting, editing, and meals. Payment made
26 to a loan out company or to an independent contractor shall not be
27 deemed a "qualified film production expense" unless the payment is
28 made in connection with a trade, profession, or occupation carried
29 on in this State or for the rendition of personal services performed
30 in this State and the taxpayer has made the withholding required
31 pursuant to subsection g. of this section. "Qualified film production
32 expenses" shall not include: expenses incurred in marketing or
33 advertising a film; and payment in excess of \$500,000 to a highly
34 compensated individual for costs for a story, script, or scenario used
35 in the production of a film and wages or salaries or other
36 compensation for writers, directors, including music directors,
37 producers, and performers, other than background actors with no
38 scripted lines, except as follows:

39 (1) for a New Jersey studio partner that incurs more than
40 \$15,000,000, but less than \$50,000,000, in qualified film production
41 expenses in the State, an amount, not to exceed \$15,000,000, of the
42 wages or salaries or other compensation for writers, directors,
43 including music directors, producers, and performers, other than
44 background actors with no scripted lines, shall constitute qualified
45 film production expenses;

46 (2) for a New Jersey studio partner that incurs \$50,000,000 or
47 more, but less than \$100,000,000, in qualified film production

1 expenses in the State, an amount, not to exceed \$25,000,000, of the
2 wages or salaries or other compensation for writers, directors,
3 including music directors, producers, and performers, other than
4 background actors with no scripted lines, shall constitute qualified
5 film production expenses;

6 (3) for a New Jersey studio partner that incurs \$100,000,000 or
7 more, but less than \$150,000,000, in qualified film production
8 expenses in the State, an amount, not to exceed \$40,000,000, of the
9 wages or salaries or other compensation for writers, directors,
10 including music directors, producers, and performers, other than
11 background actors with no scripted lines, shall constitute qualified
12 film production expenses; **[and]** ¹and¹

13 (4) for a New Jersey studio partner that incurs \$150,000,000 or
14 more in qualified film production expenses in the State, an amount,
15 not to exceed \$60,000,000, of the wages or salaries or other
16 compensation for writers, directors, including music directors,
17 producers, and performers, other than background actors with no
18 scripted lines, shall constitute qualified film production expenses¹; **[**
19 and

20 (5) for a New Jersey film-lease partner, an amount, not to
21 exceed \$15,000,000, of the payments in excess of \$500,000 to each
22 highly compensated individual for costs for a story, script, or
23 scenario used in the production of a film and wages or salaries or
24 other compensation for writers, directors, including music directors,
25 producers, and performers, other than background actors with no
26 scripted lines, shall constitute qualified film production expenses¹. **]**

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

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

33 i. A business that is not a "taxpayer" as defined and used in the
34 "Corporation Business Tax Act (1945)," P.L.1945, c.162
35 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
36 under this section, but is a business entity that is classified as a
37 partnership for federal income tax purposes and is ultimately owned
38 by a business entity that is a "corporation" as defined in subsection
39 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
40 liability company formed under the "Revised Uniform Limited
41 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
42 qualified to do business in this State as a foreign limited liability
43 company, with one member, and is wholly owned by the business
44 entity that is a "corporation" as defined in subsection (c) of section
45 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
46 requirements of this section, shall be considered an eligible

1 applicant and "taxpayer" as that term is used in this section.
2 (cf: P.L.2021, c.160, s.58)

3

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

6 2. a. (1) A taxpayer, upon approval of an application to the
7 authority and the director, shall be allowed a credit against the tax
8 otherwise due for the taxable year under the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35
10 percent of the qualified film production expenses of the taxpayer
11 during a taxable year commencing on or after July 1, 2018 but
12 before July 1, 2034, provided that:

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

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

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

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

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

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

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

1 otherwise due for the taxable year under the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:
3 **[20]** 30 percent of the qualified digital media content production
4 expenses of the taxpayer during a taxable year commencing on or
5 after July 1, 2018 but before July 1, 2034, provided that:

6 (a) at least \$2,000,000 of the total digital media content
7 production expenses of the taxpayer are incurred for services
8 performed, and goods purchased through vendors authorized to do
9 business, in New Jersey;

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

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

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

19 (2) Notwithstanding the provisions of paragraph (1) of
20 subsection b. of this section to the contrary, the tax credit allowed
21 pursuant to this subsection against the tax otherwise due for the
22 taxable year under the "New Jersey Gross Income Tax Act,"
23 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[25]** 35
24 percent for the qualified digital media content production expenses
25 of the taxpayer during a taxable year that are incurred for services
26 performed and tangible personal property purchased through
27 vendors whose primary place of business is located in Atlantic,
28 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
29 or Salem County.

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

1 necessary, to the seven taxable years following the taxable year for
2 which the tax credit was allowed.

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

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

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

30 e. A taxpayer, with an application for a tax credit provided for
31 in subsection a. or subsection b. of this section, may apply to the
32 authority and the director for a tax credit transfer certificate in lieu
33 of the taxpayer being allowed any amount of the tax credit against
34 the tax liability of the taxpayer. The tax credit transfer certificate,
35 upon receipt thereof by the taxpayer from the authority and the
36 director, may be sold or assigned, in full or in part, to any other
37 taxpayer that may have a tax liability under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
39 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
40 exchange for private financial assistance to be provided by the
41 purchaser or assignee to the taxpayer that has applied for and been
42 granted the tax credit. The tax credit transfer certificate provided to
43 the taxpayer shall include a statement waiving the taxpayer's right
44 to claim that amount of the tax credit against the tax imposed
45 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
46 sell or assign. The sale or assignment of any amount of a tax credit
47 transfer certificate allowed under this section shall not be

1 exchanged for consideration received by the taxpayer of less than
2 75 percent of the transferred tax credit amount. Any amount of a
3 tax credit transfer certificate used by a purchaser or assignee against
4 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
5 same limitations and conditions that apply to the use of a tax credit
6 pursuant to subsections c. and d. of this section. Any amount of a
7 tax credit transfer certificate obtained by a purchaser or assignee
8 under subsection e. of this section may be applied against the
9 purchaser's or assignee's tax liability under P.L.1945, c.162
10 (C.54:10A-1 et seq.) and shall be subject to the same limitations
11 and conditions that apply to the use of a credit pursuant to
12 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

13 f. (1) The value of tax credits, including tax credits allowed
14 through the granting of tax credit transfer certificates, approved by
15 the director and the authority pursuant to subsection a. of this
16 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
17 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio
18 partners and New Jersey film-lease partners, shall not exceed a
19 cumulative total of \$100,000,000 in fiscal year 2019 and in each
20 fiscal year thereafter prior to fiscal year 2035 to apply against the
21 tax imposed pursuant to the "New Jersey Gross Income Tax Act,"
22 N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5). In addition to the \$100,000,000 limitation on the
24 value of tax credits approved by the director for New Jersey film-
25 lease partners and the \$100,000,000 limitation on the value of tax
26 credits approved by the director for other taxpayers imposed by this
27 paragraph, the value of tax credits, including tax credits allowed
28 through the granting of tax credit transfer certificates, approved by
29 the director and the authority pursuant to subsection a. of this
30 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
31 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a
32 cumulative total of \$100,000,000 in fiscal year 2021 and in each
33 fiscal year thereafter prior to fiscal year 2034 to apply against the
34 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
35 and the tax imposed pursuant to the "New Jersey Gross Income Tax
36 Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in
37 addition to the \$100,000,000 made available for New Jersey studio
38 partners pursuant to this paragraph, up to an additional
39 \$350,000,000 may be made available annually, in the discretion of
40 the authority, to New Jersey studio partners for the award of tax
41 credits, including tax credits allowed through the granting of tax
42 credit transfer certificates, pursuant to subsection a. of this section
43 and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b),
44 from the funds made available pursuant to subparagraph (i) of
45 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
46 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
47 value of tax credits approved by the director for New Jersey studio

1 partners and the \$100,000,000 limitation on the value of tax credits
2 approved by the director for other taxpayers imposed by this
3 paragraph, the value of tax credits, including tax credits allowed
4 through the granting of tax credit transfer certificates, approved by
5 the director and the authority pursuant to subsection a. of this
6 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
7 (C.54:10A-5.39b) to New Jersey film-lease partners shall not
8 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
9 in each fiscal year thereafter prior to fiscal year 2034 to apply
10 against the tax imposed pursuant to section 5 of P.L.1945, c.162
11 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
12 Gross Income Tax Act," N.J.S.54A:1-1 et seq. ¹Beginning in fiscal
13 year 2025, in addition to the \$100,000,000 made available for New
14 Jersey film-lease partners pursuant to this paragraph, up to an
15 additional \$100,000,000 may be made available annually, in the
16 discretion of the authority, to New Jersey film-lease partners for the
17 award of tax credits, including tax credits allowed through the
18 granting of tax credit transfer certificates, pursuant to subsection a.
19 of this section and subsection a. of section 1 of P.L.2018, c.56
20 (C.54:10A-5.39b), from the funds made available pursuant to
21 subparagraph (i) of paragraph (1) of subsection b. of section 98 of
22 P.L.2020, c.156 (C.34:1B-362).¹ Approvals made to New Jersey
23 studio partners and New Jersey film-lease partners shall be subject
24 to award agreements with the authority detailing obligations of the
25 awardee and outcomes relating to events of default, including, but
26 not limited to, recapture, forfeiture, and termination. If in any
27 taxable year, beginning following a date determined by the
28 authority, a New Jersey film-lease partner's annual average of
29 qualified film production expenses falls below \$50,000,000, the
30 authority shall reduce by 20 percent any tax credit award for a film
31 for which final documentation ¹**【pursuant to N.J.A.C.19:31-**
32 **21.7(c)】¹** has been submitted, until a taxable year when the annual
33 average of qualified film production expenses has been restored to
34 \$50,000,000. The authority shall establish a non-binding,
35 administrative pre-certification process for potentially eligible
36 projects.

37 **【**If the cumulative total amount of tax credits, and tax credit
38 transfer certificates, allowed to taxpayers for taxable years or
39 privilege periods commencing during a single fiscal year under
40 subsection a. of this section and subsection a. of section 1 of
41 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
42 available in that fiscal year, then taxpayers who have first applied
43 for and have not been allowed a tax credit or tax credit transfer
44 certificate amount for that reason shall be allowed, in the order in
45 which they have submitted an application, the amount of tax credit
46 or tax credit transfer certificate on the first day of the next

1 succeeding fiscal year in which tax credits and tax credit transfer
2 certificates under subsection a. of this section and subsection a. of
3 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
4 the amount of credits ¹ Notwithstanding the limitations set forth
5 in this paragraph, if in any fiscal year the authority receives
6 applications for tax credits under subsection a. of this section and
7 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in
8 amounts exceeding the total amount of tax credits available for the
9 fiscal year, then the authority may approve applications, in the order
10 in which such applications were submitted, for excess tax credits
11 during the year in which the application was submitted, provided
12 that the amount of excess credits shall be subtracted from the total
13 amounts allowed for the next following fiscal year in which credits
14 are available, and provided further that the taxpayer shall not claim
15 the excess tax credit or tax credit transfer certificate until the first
16 day of the fiscal year from which the credits were made ¹ If the
17 cumulative total amount of tax credits, and tax credit transfer
18 certificates, allowed to taxpayers for taxable years or privilege
19 periods commencing during a single fiscal year under subsection a.
20 of this section and subsection a. of section 1 of P.L.2018, c.56
21 (C.54:10A-5.39b) exceeds the amount of tax credits available in
22 that fiscal year, then taxpayers who have first applied for and have
23 not been allowed a tax credit or tax credit transfer certificate
24 amount for that reason shall be allowed, in the order in which they
25 have submitted an application, the amount of tax credit or tax credit
26 transfer certificate on the first day of the next succeeding fiscal year
27 in which tax credits and tax credit transfer certificates under
28 subsection a. of this section and subsection a. of section 1 of
29 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
30 credits ¹ available.

31 Notwithstanding any provision of ¹ this ¹ paragraph ¹ [(1) of this
32 subsection] ¹ to the contrary, for any fiscal year in which the
33 amount of tax credits approved ¹ to New Jersey studio partners, New
34 Jersey film-lease partners, or taxpayers other than New Jersey
35 studio partners and New Jersey film-lease partners ¹ pursuant to this
36 paragraph is less than the cumulative total amount of tax credits
37 permitted to be approved ¹ to each such category ¹ in that fiscal year,
38 the authority shall certify the amount of the remaining tax credits
39 available for approval ¹ to each such category ¹ in that fiscal year,
40 and shall increase the cumulative total amount of tax credits
41 permitted to be approved for New Jersey studio partners ¹, New
42 Jersey film-lease partners, or taxpayers other than New Jersey
43 studio partners and New Jersey film-lease partners ¹ in the
44 subsequent fiscal year by the certified amount remaining from the
45 prior fiscal year. The authority shall also certify, for each fiscal
46 year, the amount of tax credits that were previously approved, but

1 that the taxpayer is not able to redeem or transfer to another
2 taxpayer under this section, and shall increase the cumulative total
3 amount of tax credits permitted to be approved for New Jersey
4 studio partners ¹, New Jersey film-lease partners, or taxpayers other
5 than New Jersey studio partners and New Jersey film-lease
6 partners¹ in the subsequent fiscal year by the amount of tax credits
7 previously approved ¹for each such category¹, but not subject to
8 redemption or transfer. ¹In each fiscal year in which tax credits
9 remain unapproved for, or unredeemed or not transferred by, New
10 Jersey film-lease partners or taxpayers other than New Jersey studio
11 partners and New Jersey film-lease partners, the authority may
12 reallocate some or all of such remaining tax credits in the
13 subsequent fiscal year between the category of New Jersey film-
14 lease partners and the category of taxpayers other than New Jersey
15 studio partners and New Jersey film-lease partners in lieu of
16 increasing the tax credits available for the respective category by
17 the amount reallocated.¹

18 (2) The value of tax credits, including tax credits allowed
19 through the granting of tax credit transfer certificates, approved by
20 the authority and the director pursuant to subsection b. of this
21 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
22 (C.54:10A-5.39b) shall not exceed a cumulative total of
23 **[\$10,000,000]** \$30,000,000 in fiscal year 2019 and in each fiscal
24 year thereafter prior to fiscal year 2035 to apply against the tax
25 imposed pursuant to the "New Jersey Gross Income Tax Act,"
26 N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of
27 P.L.1945, c.162 (C.54:10A-5).

28 **【**If the total amount of tax credits and tax credit transfer
29 certificates allowed to taxpayers for taxable years or privilege
30 periods commencing during a single fiscal year under subsection b.
31 of this section and subsection b. of section 1 of P.L.2018, c.56
32 (C.54:10A-5.39b) exceeds the amount of tax credits available in
33 that year, then taxpayers who have first applied for and have not
34 been allowed a tax credit or tax credit transfer certificate amount for
35 that reason shall be allowed, in the order in which they have
36 submitted an application, the amount of tax credit or tax credit
37 transfer certificate on the first day of the next succeeding fiscal year
38 in which tax credits and tax credit transfer certificates under
39 subsection b. of this section and subsection b. of section 1 of
40 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
41 credits **】** ¹【Notwithstanding the limitations set forth in this
42 paragraph, if in any fiscal year the authority receives applications
43 for tax credits under subsection b. of this section and subsection b.
44 of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in amounts
45 exceeding the total amount of tax credits available for the fiscal
46 year, then the authority may approve applications, in the order in

1 which such applications were submitted, for excess tax credits
2 during the year in which the application was submitted, provided
3 that the amount of excess credits shall be subtracted from the total
4 amounts allowed for the next following fiscal year in which credits
5 are available, and provided further that the taxpayer shall not claim
6 the excess tax credit or tax credit transfer certificate until the first
7 day of the fiscal year from which the credits were made.] If the total
8 amount of tax credits and tax credit transfer certificates allowed to
9 taxpayers for taxable years or privilege periods commencing during
10 a single fiscal year under subsection b. of this section and
11 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b)
12 exceeds the amount of tax credits available in that year, then
13 taxpayers who have first applied for and have not been allowed a
14 tax credit or tax credit transfer certificate amount for that reason
15 shall be allowed, in the order in which they have submitted an
16 application, the amount of tax credit or tax credit transfer certificate
17 on the first day of the next succeeding fiscal year in which tax
18 credits and tax credit transfer certificates under subsection b. of this
19 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
20 5.39b) are not in excess of the amount of credits¹ available.

21 Notwithstanding any provision of this paragraph to the contrary,
22 for any fiscal year in which the amount of tax credits approved
23 pursuant to this paragraph is less than the cumulative total amount
24 of tax credits permitted to be approved in that fiscal year, the
25 authority shall certify the amount of the remaining tax credits
26 available for approval in that fiscal year, and shall increase the
27 cumulative total amount of tax credits permitted to be approved in
28 the subsequent fiscal year by the certified amount remaining from
29 the prior fiscal year. The authority shall also certify, for each fiscal
30 year, the amount of tax credits that were previously approved, but
31 that the taxpayer is not able to redeem or transfer to another
32 taxpayer under this section, and shall increase the cumulative total
33 amount of tax credits permitted to be approved in the subsequent
34 fiscal year by the amount of tax credits previously approved, but not
35 subject to redemption or transfer.

36 g. A taxpayer shall submit to the authority and the director a
37 report prepared by an independent certified public accountant
38 licensed in this State to verify the taxpayer's tax credit claim
39 following the completion of the production. The report shall be
40 prepared by the independent certified public accountant pursuant to
41 agreed upon procedures prescribed by the authority and the director,
42 and shall include such information and documentation as shall be
43 determined to be necessary by the authority and the director to
44 substantiate the qualified film production expenses or the qualified
45 digital media content production expenses of the taxpayer. A single
46 report with attachments deemed necessary by the authority shall be
47 submitted electronically. Upon receipt of the report, the authority

1 and the director shall review the findings of the independent
2 certified public accountant's report, and shall make a determination
3 as to the qualified film production expenses or the qualified digital
4 media content production expenses of the taxpayer. The authority's
5 and the director's review shall include, but shall not be limited to: a
6 review of all non-payroll qualified film production expense items
7 and non-payroll digital media content production expense items
8 over \$20,000; a review of 100 randomly selected non-payroll
9 qualified film production expense items and non-payroll digital
10 media content production expense items that are greater than
11 \$2,500, but less than \$20,000; a review of 100 randomly selected
12 non-payroll qualified film production expense items and non-
13 payroll digital media content production expense items that are less
14 than \$2,500; a review of the qualified wages for the 15 employees,
15 independent contractors, or loan-out companies with the highest
16 qualified wages; and a review of the qualified wages for 35
17 randomly selected employees, independent contractors, or loan-out
18 companies with qualified wages other than the 15 employees,
19 independent contractors, or loan-out companies with the highest
20 qualified wages. The taxpayer's qualified film production expenses
21 and digital media content production expenses shall be adjusted
22 based on any discrepancies identified for the reviewed non-payroll
23 qualified film production expense items, non-payroll digital media
24 content production expense items and qualified wages. The
25 taxpayer's qualified film production expenses and digital media
26 content production expenses also shall be adjusted based on the
27 projection of any discrepancies identified based on the review of
28 randomly selected expense items or wages pursuant to this
29 subsection to the extent that the discrepancies exceed one percent of
30 the total reviewed non-payroll qualified film production expense
31 items, non-payroll digital media content production expense items,
32 or qualified wages. The determination shall be provided in writing
33 to the taxpayer, and a copy of the written determination shall be
34 included in the filing of a return that includes a claim for a tax
35 credit allowed pursuant to this section.

36 h. A taxpayer shall withhold from each payment to a loan out
37 company or to an independent contractor an amount equal to 6.37
38 percent of the payment otherwise due. The amounts withheld shall
39 be deemed to be withholding of liability pursuant to the "New
40 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
41 taxpayer shall be deemed to have the rights, duties, and
42 responsibilities of an employer pursuant to chapter 7 of Title 54A of
43 the New Jersey Statutes. The director shall allocate the amounts
44 withheld for a taxable year to the accounts of the individuals who
45 are employees of a loan out company in proportion to the
46 employee's payment by the loan out company in connection with a
47 trade, profession, or occupation carried on in this State or for the

1 rendition of personal services performed in this State during the
2 taxable year. A loan out company that reports its payments to
3 employees in connection with a trade, profession, or occupation
4 carried on in this State or for the rendition of personal services
5 performed in this State during a taxable year shall be relieved of its
6 duties and responsibilities as an employer pursuant to chapter 7 of
7 Title 54A of the New Jersey Statutes for the taxable year for any
8 payments relating to the payments on which the taxpayer withheld.

9 i. As used in this section:

10 "Authority" means the New Jersey Economic Development
11 Authority.

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

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

17 "Digital media content" means any data or information that is
18 produced in digital form, including data or information created in
19 analog form but reformatted in digital form, text, graphics,
20 photographs, animation, sound, and video content. "Digital media
21 content" shall not mean content offerings generated by the end user
22 (including postings on electronic bulletin boards and chat rooms);
23 content offerings comprised primarily of local news, events,
24 weather or local market reports; public service content; electronic
25 commerce platforms (such as retail and wholesale websites);
26 websites or content offerings that contain obscene material as
27 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
28 content that are produced or maintained primarily for private,
29 industrial, corporate, or institutional purposes; or digital media
30 content acquired or licensed by the taxpayer for distribution or
31 incorporation into the taxpayer's digital media content.

32 "Film" means a feature film, a television series, or a television
33 show of 22 minutes or more in length, intended for a national
34 audience, or a television series or a television show of 22 minutes
35 or more in length intended for a national or regional audience,
36 including, but not limited to, a game show, award show, or other
37 gala event filmed and produced at a nonprofit arts and cultural
38 venue receiving State funding. "Film" shall not include a
39 production featuring news, current events, weather, and market
40 reports or public programming, talk show, sports event, or reality
41 show, a production that solicits funds, a production containing
42 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
43 3, or a production primarily for private, industrial, corporate, or
44 institutional purposes. "Film" shall not include an award show or
45 other gala event that is not filmed and produced at a nonprofit arts
46 and cultural venue receiving State funding.

1 "Full-time or full-time equivalent employee" means an individual
2 employed by the taxpayer for consideration for at least 35 hours a
3 week, or who renders any other standard of service generally
4 accepted by custom or practice as full-time or full-time equivalent
5 employment, whose wages are subject to withholding as provided in
6 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
7 who is a partner of a taxpayer, who works for the partnership for at
8 least 35 hours a week, or who renders any other standard of service
9 generally accepted by custom or practice as full-time or full-time
10 equivalent employment, and whose distributive share of income,
11 gain, loss, or deduction, or whose guaranteed payments, or any
12 combination thereof, is subject to the payment of estimated taxes, as
13 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
14 et seq. "Full-time or full-time equivalent employee" shall not
15 include an individual who works as an independent contractor or on
16 a consulting basis for the taxpayer.

17 "Highly compensated individual" means an individual who
18 directly or indirectly receives compensation in excess of \$500,000
19 for the performance of services used directly in a production. An
20 individual receives compensation indirectly when the taxpayer pays
21 a loan out company that, in turn, pays the individual for the
22 performance of services.

23 "Incurred in New Jersey" means, for any application submitted
24 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
25 pursuant to which a tax credit has not been allowed prior to the
26 effective date of P.L.2021, c.160, service performed within New
27 Jersey and tangible personal property used or consumed in New
28 Jersey. A service is performed in New Jersey to the extent that the
29 individual performing the service is physically located in New
30 Jersey while performing the service. Notwithstanding where the
31 property is delivered or acquired, rented tangible property is used or
32 consumed in New Jersey to the extent that the property is located in
33 New Jersey during its use or consumption and is rented from a
34 vendor authorized to do business in New Jersey or the film
35 production company provides to the authority the vendor's
36 information in a form and manner prescribed by the authority.
37 Purchased tangible property is not used and consumed in New
38 Jersey unless it is purchased from a vendor authorized to do
39 business in New Jersey and is delivered to or acquired within New
40 Jersey; provided, however, that if a production is also located in
41 another jurisdiction, the purchased tangible property is used and
42 consumed in New Jersey if the acquisition and delivery of
43 purchased tangible property is located in either New Jersey or
44 another jurisdiction where the production takes place.

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

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

3 "Loan out company" means a personal service corporation or
4 other entity that is contracted with by the taxpayer to provide
5 specified individual personnel, such as artists, crew, actors,
6 producers, or directors for the performance of services used directly
7 in a production. "Loan out company" shall not include entities
8 contracted with by the taxpayer to provide goods or ancillary
9 contractor services such as catering, construction, trailers,
10 equipment, or transportation.

11 "New Jersey film-lease partner" means a taxpayer, including any
12 taxpayer that is a member of a combined group under P.L.2018,
13 c.131 (C:54:10A-4.11), that has made a commitment to lease or
14 acquire all or part of a New Jersey production facility **[with]** ,
15 which leased or acquired space shall have an aggregate square
16 footage of at least 50,000 square feet, **[which includes]** including
17 a sound stage and production support space, such as production
18 offices or a backlot, for a period of five or more successive years
19 and commits to spend, on a separate-entity basis or in the aggregate
20 with other members of the taxpayer's combined group, an annual
21 average of \$50,000,000 of qualified film production expenses over
22 the period of at least five but not to exceed 10 years.

23 "New Jersey studio partner" means a film production company
24 that has made a commitment to produce films or commercial
25 audiovisual products in New Jersey and has developed, purchased,
26 or executed a 10-year contract to lease a production facility of
27 250,000 square feet or more ¹**[as a "transformative project"**
28 **pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333)]¹. No
29 more than three film production companies may be designated as a
30 New Jersey studio partner.**

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

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

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

42 "Qualified digital media content production expenses" means an
43 expense incurred in New Jersey for the production of digital media
44 content. "Qualified digital media content production expenses"
45 shall include but not be limited to: wages and salaries of individuals
46 employed in the production of digital media content on which the

1 tax imposed by the "New Jersey Gross Income Tax Act,"
2 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
3 computer software and hardware, data processing, visualization
4 technologies, sound synchronization, editing, and the rental of
5 facilities and equipment. Payment made to a loan out company or
6 to an independent contractor shall not be deemed a "qualified digital
7 media content production expense" unless the payment is made in
8 connection with a trade, profession, or occupation carried on in this
9 State or for the rendition of personal services performed in this
10 State and the taxpayer has made the withholding required pursuant
11 to subsection h. of this section. "Qualified digital media content
12 production expenses" shall not include expenses incurred in
13 marketing, promotion, or advertising digital media or other costs
14 not directly related to the production of digital media content.
15 Costs related to the acquisition or licensing of digital media content
16 by the taxpayer for distribution or incorporation into the taxpayer's
17 digital media content shall not be deemed "qualified digital media
18 content production expenses."

19 "Qualified film production expenses" means an expense incurred
20 in New Jersey for the production of a film including pre-production
21 costs and post-production costs incurred in New Jersey. "Qualified
22 film production expenses" shall include but not be limited to:
23 wages and salaries of individuals employed in the production of a
24 film on which the tax imposed by the "New Jersey Gross Income
25 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
26 costs for tangible personal property used, and services performed,
27 directly and exclusively in the production of a film, such as
28 expenditures for film production facilities, props, makeup,
29 wardrobe, film processing, camera, sound recording, set
30 construction, lighting, shooting, editing, and meals. Payment made
31 to a loan out company or to an independent contractor shall not be
32 deemed a "qualified film production expense" unless the payment is
33 made in connection with a trade, profession, or occupation carried
34 on in this State or for the rendition of personal services performed
35 in this State and the taxpayer has made the withholding required by
36 subsection h. of this section. "Qualified film production expenses"
37 shall not include: expenses incurred in marketing or advertising a
38 film; and payment in excess of \$500,000 to a highly compensated
39 individual for costs for a story, script, or scenario used in the
40 production of a film and wages or salaries or other compensation
41 for writers, directors, including music directors, producers, and
42 performers, other than background actors with no scripted lines,
43 except as follows:

44 (1) for a New Jersey studio partner that incurs more than
45 \$15,000,000, but less than \$50,000,000, in qualified film production
46 expenses in the State, an amount, not to exceed \$15,000,000, of the
47 wages or salaries or other compensation for writers, directors,

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

4 (2) for a New Jersey studio partner that incurs \$50,000,000 or
5 more, but less than \$100,000,000, in qualified film production
6 expenses in the State, an amount, not to exceed \$25,000,000, of the
7 wages or salaries or other compensation for writers, directors,
8 including music directors, producers, and performers, other than
9 background actors with no scripted lines, shall constitute qualified
10 film production expenses;

11 (3) for a New Jersey studio partner that incurs \$100,000,000 or
12 more, but less than \$150,000,000, in qualified film production
13 expenses in the State, an amount, not to exceed \$40,000,000, of the
14 wages or salaries or other compensation for writers, directors,
15 including music directors, producers, and performers, other than
16 background actors with no scripted lines, shall constitute qualified
17 film production expenses; **[and]** ¹and¹

18 (4) for a New Jersey studio partner that incurs \$150,000,000 or
19 more in qualified film production expenses in the State, an amount,
20 not to exceed \$60,000,000, of the wages or salaries or other
21 compensation for writers, directors, including music directors,
22 producers, and performers, other than background actors with no
23 scripted lines, shall constitute qualified film production expenses¹**;**
24 and

25 (5) for a New Jersey film-lease partner, an amount, not to
26 exceed \$15,000,000, of the payments in excess of \$500,000 to each
27 highly compensated individual for costs for a story, script, or
28 scenario used in the production of a film and wages or salaries or
29 other compensation for writers, directors, including music directors,
30 producers, and performers, other than background actors with no
31 scripted lines, shall constitute qualified film production expenses¹**].**

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

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

38 (cf: P.L.2021, c.160, s.59)

39

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

41 4. a. A taxpayer, upon approval of an application to the authority
42 and the director, shall be allowed a credit against the tax imposed
43 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the
44 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an
45 amount equal to 2 percent of the qualified film or digital media content
46 production expenses of the taxpayer during a privilege period or

1 taxable year commencing on or after July 1, 2018 but before July 1,
2 ~~2028~~ 2034, provided that:

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

6 **[b.]** (2) the director and the authority have approved the plan as
7 meeting the requirements established by the director and the authority;
8 and

9 **[c.]** (3) the director and the authority have verified that the
10 applicant has met or made good faith efforts in achieving those goals.

11 b. The amount of a tax credit allowed pursuant to subsection a. of
12 this section shall increase to four percent of the qualified film or digital
13 media content production expenses of the taxpayer if the diversity
14 plan, in addition to meeting the requirements of subsection a. of this
15 section, outlines specific goals that include hiring persons as
16 ²[credited]² performers in the film or digital media production who
17 ²are²: (i) ²[are]² members of ethnic minority groups that are
18 underrepresented in film or digital media productions; (ii) ²[have
19 been] if credited, residents of New Jersey for at least 12 months
20 preceding the beginning of filming or recording, and if uncredited,²
21 residents of any municipality in New Jersey in which filming occurs as
22 part of the production for at least 12 months preceding the beginning
23 of filming or recording at that location, or any surrounding
24 municipality; and (iii) ²[are]² members of a bona fide labor union
25 representing film and television performers.

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

28 d. The application shall indicate whether the applicant intends to
29 participate in training, education, and recruitment programs that are
30 organized in cooperation with State colleges and universities, labor
31 organizations, and the motion picture industry and are designed to
32 promote and encourage the training and hiring of New Jersey residents
33 who represent the diversity of the State population.¹

34 (cf: P.L.2019, c.506, s.3)

35

36 ¹4. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
37 read as follows:

38 98. a. The combined value of all tax credits awarded under the
39 "Historic Property Reinvestment Act," sections 1 through 8 of
40 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the
41 "Brownfield Redevelopment Incentive Program Act," sections 9
42 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);
43 the "New Jersey Innovation Evergreen Act," sections 20 through 34
44 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food
45 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
46 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-

1 Anchored Development Act," sections 43 through 53 of P.L.2020,
2 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
3 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
4 322 through C.34:1B-335); the "Emerge Program Act," sections 68
5 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of
6 P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of
7 \$11.5 billion over a seven-year period, subject to the conditions and
8 limitations set forth in this section. Of this \$11.5 billion, \$2.5
9 billion shall be reserved for transformative projects approved under
10 the Aspire Program.

11 b. (1) The total value of tax credits awarded under any
12 constituent program of the "New Jersey Economic Recovery Act of
13 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
14 following annual limitations, except as otherwise provided in
15 subsection c. of this section:

16 (a) for tax credits awarded under the "Historic Property
17 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
18 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
19 annually awarded during each of the first six years of the seven-year
20 period shall not exceed \$50 million;

21 (b) for tax credits awarded under the "Brownfield
22 Redevelopment Incentive Program Act," sections 9 through 19 of
23 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total
24 value of tax credits annually awarded during each of the first six
25 years of the seven-year period shall not exceed \$50 million;

26 (c) for tax credits awarded under the "New Jersey Innovation
27 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
28 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
29 annually awarded during each of the first six years of the seven-year
30 period shall not exceed \$60 million and the total value of tax credits
31 awarded over the entirety of the seven-year program shall not
32 exceed \$300,000,000;

33 (d) for tax credits awarded under the "Food Desert Relief Act,"
34 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
35 C.34:1B-310), the total value of tax credits annually awarded during
36 each of the first six years of the seven-year period shall not exceed
37 \$40 million;

38 (e) for tax credits awarded under the "New Jersey Community-
39 Anchored Development Act," sections 43 through 53 of P.L.2020,
40 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
41 credits annually awarded during each of the first six years of the
42 seven-year period shall not exceed \$200 million, except that during
43 each of the first six years of the seven-year period, the authority
44 shall annually award tax credits valuing no greater than \$130
45 million for projects located in the 13 northern counties of the State,
46 and the authority shall annually award tax credits valuing no greater
47 than \$70 million for projects located in the eight southern counties

1 of the State. If during any of the first six years of the seven-year
2 period, the authority awards tax credits in an amount less than the
3 annual limitation for projects located in northern counties or
4 southern counties, as applicable, the uncommitted portion of the
5 annual limitation shall be available to be deployed by the authority
6 in a subsequent year, provided that the uncommitted portion of tax
7 credits shall be awarded for projects located in the applicable
8 geographic area, except that (i) after the completion of the third
9 year of the seven-year period, the authority may deploy 50 percent
10 of the uncommitted portion of tax credits from any previous year
11 without consideration to the county in which a project is located;
12 and (ii) after the completion of the sixth year of the seven-year
13 period, the authority may deploy all available tax credits, including
14 the uncommitted portion of the annual limitation for any previous
15 year, without consideration to the county in which a project is
16 located;

17 (f) for tax credits awarded under the "New Jersey Aspire
18 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
19 322 through C.34:1B-335), and the "Emerge Program Act," sections
20 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
21 including tax credits awarded for transformative projects, the total
22 value of tax credits annually awarded during each of the first six
23 years of the seven-year period shall not exceed \$1.1 billion. If the
24 authority awards tax credits in an amount less than the annual
25 limitation, then the uncommitted portion of the annual limitation
26 shall be made available for qualified offshore wind projects
27 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),
28 pursuant to subparagraph (h) of this paragraph, or New Jersey
29 studio partners and New Jersey film-lease partners awarded under
30 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
31 12b), pursuant to subparagraph (i) of this paragraph. During each
32 of the first six years of the seven-year period, the authority shall
33 annually award tax credits valuing no greater than \$715 million for
34 projects located in the northern counties of the State, and the
35 authority shall annually award tax credits valuing no greater than
36 \$385 million for projects located in the southern counties of the
37 State under the "New Jersey Aspire Program Act," sections 54
38 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
39 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
40 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
41 seven-year period, the authority awards tax credits under the "New
42 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
43 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
44 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
45 336 et al.), in an amount less than the annual limitation for projects
46 located in northern counties or southern counties, as applicable, the
47 uncommitted portion of the annual limitation shall be available to

1 be deployed by the authority in a subsequent year, provided that the
2 uncommitted portion of tax credits shall be awarded for projects
3 located in the applicable geographic area, except that (i) after the
4 completion of the third year of the seven-year period, the authority
5 may deploy 50 percent of the uncommitted portion of tax credits for
6 any previous year without consideration to the county in which a
7 project is located; and (ii) after the completion of the sixth year of
8 the seven-year period, the authority may deploy all available tax
9 credits, including the uncommitted portion of the annual limitation
10 for any previous year, without consideration to the county in which
11 a project is located;

12 (g) for tax credits awarded for transformative projects under the
13 "New Jersey Aspire Program Act," sections 54 through 67 of
14 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), the total
15 value of tax credits awarded during the seven-year period shall not
16 exceed \$2.5 billion. The total value of tax credits awarded for
17 transformative projects in a given year shall not be subject to an
18 annual limitation, except that the total value of tax credits awarded
19 to any transformative project shall not exceed \$350 million;

20 (h) from the tax credits made available, pursuant to
21 subparagraph (f) of this paragraph, to the "New Jersey Aspire
22 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
23 322 through C.34:1B-335), and the "Emerge Program Act," sections
24 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
25 including tax credits awarded for transformative projects, an
26 amount not to exceed \$350,000,000 shall be made available for
27 qualified offshore wind projects awarded a credit pursuant to
28 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
29 years of the seven-year period; and

30 (i) beginning in fiscal year 2025, from the tax credits made
31 available, pursuant to subparagraph (f) of this paragraph, to the
32 "New Jersey Aspire Program Act," sections 54 through 67 of
33 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
34 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
35 (C.34:1B-336 et al.), not including tax credits awarded for
36 transformative projects, additional amounts shall be made available
37 for New Jersey studio partners and New Jersey film-lease partners
38 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
39 C.54A:4-12b).

40 (2) The authority may in any given year determine that it is in
41 the State's interest to approve an amount of tax credits in excess of
42 the annual limitations set forth in paragraph (1) of this subsection,
43 but in no event more than \$200,000,000 in excess of the annual
44 limitation, upon a determination by the authority board that such
45 increase is warranted based on specific criteria that may include:

46 (i) the increased demand for opportunities to create or retain
47 employment and investment in the State as indicated by the volume

- 1 of project applications and the amount of tax credits being sought
2 by those applications;
- 3 (ii) the need to protect the State's economic position in the event
4 of an economic downturn;
- 5 (iii) the quality of project applications and the net economic
6 benefit to the State and municipalities associated with those
7 applications;
- 8 (iv) opportunities for project applications to strengthen or protect
9 the competitiveness of the state under the prevailing market
10 conditions;
- 11 (v) enhanced access to employment and investment for
12 underserved populations in distressed municipalities and qualified
13 incentives tracts;
- 14 (vi) increased investment and employment in high-growth
15 technology sectors and in projects that entail collaboration with
16 education institutions in the State;
- 17 (vii) increased development proximate to mass transit facilities;
- 18 (viii) any other factor deemed relevant by the authority.
- 19 c. In the event that the authority in any year approves projects
20 for tax credits in an amount less than the annual limitations set forth
21 in paragraph (1) of subsection b. of this section, then the
22 uncommitted portion of the annual limitation shall be available to
23 be deployed by the authority in future years for projects under the
24 same program; provided however, that in no event shall the
25 aggregate amount of tax credits approved be in excess of the overall
26 cap of \$11.5 billion, and in no event shall the uncommitted portion
27 of the annual limitation for any previous year be deployed after the
28 conclusion of the seven-year period.¹

29 (cf: P.L.2021, c.160, s.47)

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31 ¹**[3.] 5.**¹ This act shall take effect immediately.

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36 _____
37 Makes changes to film and digital media content production tax
credit program.

CHAPTER 367
(CORRECTED COPY OF CORRECTED COPY OF CORRECTED COPY)

AN ACT concerning gross income and corporation business tax credits for qualified film and digital media content production expenses and amending P.L.2018, c.56.

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 for 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 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, 2034, 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 approved 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 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, 2034, 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;

(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.

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. 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., 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.) 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).

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) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 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 \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, 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 2034 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 2025, in addition to the \$100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional \$350,000,000 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 \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, 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 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 2034 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 2025, in addition to the \$100,000,000 made available for New Jersey film-lease partners pursuant to this paragraph, up to an additional \$100,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease 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). Approvals made to New Jersey studio partners and New Jersey film-lease partners 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. If in any privilege period, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation has been submitted, until a privilege period when the annual average of qualified film production expenses has been restored to \$50,000,000. 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 be allowed, in the order in which they have submitted an application, 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. In each fiscal year in which tax credits remain unapproved for, or unredeemed or not transferred by, New Jersey film-lease partners or taxpayers other than New Jersey studio partners and New Jersey film-lease partners, the authority may reallocate some or all of such remaining tax credits in the subsequent fiscal year between the category of New Jersey film-lease partners and the category of taxpayers other than New Jersey studio partners and New Jersey film-lease partners in lieu of increasing the tax credits available for the respective category by the amount reallocated.

(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 2035 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 be allowed, in the order in which they have submitted an application, 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.

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. 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 or to an independent contractor 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.

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.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "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.

"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, 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, talk show, 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 owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of 24 months, and invests no less than \$3,000,000 in such a facility within a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "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 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 \$500,000 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 or 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 if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"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 a personal service corporation or other entity 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" 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), that has made a commitment to lease or acquire all or part of a New Jersey production facility, which leased or acquired space shall have an aggregate square footage of at least 50,000 square feet, including a sound stage and production support space, such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"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. 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: 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 the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. 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. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media 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 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: 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 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. 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. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and 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 more than \$15,000,000, but less than \$50,000,000, in qualified film production expenses in the State, an 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;

(2) for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, 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;

(3) for a New Jersey studio partner that incurs \$100,000,000 or more, but less than \$150,000,000, in qualified film production expenses in the State, an amount, not to exceed \$40,000,000, 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

(4) for a New Jersey studio partner that incurs \$150,000,000 or more in qualified film production expenses in the State, an 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.

"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 for certain film expenses.

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 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, 2034, 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 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, 2034, 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;

(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 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.

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. 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.), 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 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).

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) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 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 \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, 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 2034 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 2025, in addition to the \$100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional \$350,000,000 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 \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, 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 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 2034 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 2025, in addition to the \$100,000,000 made available for New Jersey film-lease partners pursuant to this paragraph, up to an additional \$100,000,000 may be made available annually, in the discretion of the authority, to New Jersey film-lease 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). Approvals made to New Jersey studio partners and New Jersey film-lease partners 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. If in any taxable year, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation has been submitted, until a taxable year when the annual average of qualified film production expenses has been restored to \$50,000,000. 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 be allowed, in the order in which they have submitted an application, 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners 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 partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer. In each fiscal year in which tax credits remain unapproved for, or unredeemed or not transferred by, New Jersey film-lease partners or taxpayers other than New Jersey studio partners and New Jersey film-lease partners, the authority may reallocate some or all of such remaining tax credits in the subsequent fiscal

year between the category of New Jersey film-lease partners and the category of taxpayers other than New Jersey studio partners and New Jersey film-lease partners in lieu of increasing the tax credits available for the respective category by the amount reallocated.

(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 2035 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 be allowed, in the order in which they have submitted an application, 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.

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. 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 or to an independent contractor 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.

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.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "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.

"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, 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, talk show, sports event, or reality show, 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. "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 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 \$500,000 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 or 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 if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"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 a personal service corporation or other entity 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" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.131 (C.54:10A-4.11), that has made a commitment to lease or acquire all or part of a New Jersey production facility, which leased or acquired space shall have an aggregate square footage of at least 50,000 square feet, including a sound stage and production support space, such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"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. 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: 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 the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. 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. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media 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 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: 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 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. 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. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and 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 more than \$15,000,000, but less than \$50,000,000, in qualified film production expenses in the State, an 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;

(2) for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, 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;

(3) for a New Jersey studio partner that incurs \$100,000,000 or more, but less than \$150,000,000, in qualified film production expenses in the State, an amount, not to exceed \$40,000,000, 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

(4) for a New Jersey studio partner that incurs \$150,000,000 or more in qualified film production expenses in the State, an 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.

"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, 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 2 percent of the qualified film or 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, 2034, 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;

(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 or digital media content 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 or digital media production who are: (i) members of ethnic minority groups that are underrepresented in film or digital media productions; (ii) if credited, residents of New Jersey for at least 12 months preceding the beginning of filming or recording, and if uncredited, residents of any municipality in New Jersey in which filming occurs as part of the production for at least 12 months preceding the beginning of filming or recording at that location, or any surrounding municipality; and (iii) members of a bona fide labor union representing film and television performers.

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.

4. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

C.34:1B-362 Combined value of all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of \$11.5 billion over a seven-year period, subject to the conditions and limitations set forth in this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject

to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$50 million;

(b) for tax credits awarded under the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$60 million and the total value of tax credits awarded over the entirety of the seven-year program shall not exceed \$300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$200 million, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than \$130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$70 million for projects located in the eight southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease partners awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph. During each of the first six years of the seven-year period,

the authority shall annually award tax credits valuing no greater than \$715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the seven-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax credits awarded during the seven-year period shall not exceed \$2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed \$350 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed \$350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the seven-year period; and

(i) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease partners pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than \$200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

- (ii) the need to protect the State's economic position in the event of an economic downturn;
- (iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;
- (iv) opportunities for project applications to strengthen or protect the competitiveness of the state under the prevailing market conditions;
- (v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;
- (vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;
- (vii) increased development proximate to mass transit facilities;
- (viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of \$11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the seven-year period.

5. This act shall take effect immediately.

Approved January 12, 2022.

SENATE, No. 4094

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

SYNOPSIS

Makes changes to film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As introduced.



S4094 WEINBERG

2

1 AN ACT concerning gross income and corporation business tax
2 credits for qualified film and digital media content production
3 expenses and amending P.L.2018, c.56.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
9 read as follows:

10 1. a. (1) A taxpayer, upon approval of an application to the
11 authority and the director, shall be allowed a credit against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
13 an amount equal to 35 percent of the qualified film production
14 expenses of the taxpayer during a privilege period commencing on
15 or after July 1, 2018 but before July 1, 2034, provided that:

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

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

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

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

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

38 (2) Notwithstanding the provisions of paragraph (1) of
39 subsection a. of this section to the contrary, the tax credit allowed
40 pursuant to this subsection against the tax imposed pursuant to
41 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
42 equal to 30 percent of the qualified film production expenses of the
43 taxpayer during a privilege period that are incurred for services
44 performed and tangible personal property purchased for use at a
45 sound stage or other location that is located in the State within a 30-

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.

1 mile radius of the intersection of Eighth Avenue/Central Park West,
2 Broadway, and West 59th Street/Central Park South, New York,
3 New York.

4 b. (1) A taxpayer, upon approval of an application to the
5 authority and the director, shall be allowed a credit against the tax
6 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
7 an amount equal to: **[20]** 30 percent of the qualified digital media
8 content production expenses of the taxpayer during a privilege
9 period commencing on or after July 1, 2018 but before July 1, 2034,
10 provided that:

11 (a) at least \$2,000,000 of the total digital media content
12 production expenses of the taxpayer are incurred for services
13 performed, and goods purchased through vendors authorized to do
14 business, in New Jersey;

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

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

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

24 (2) Notwithstanding the provisions of paragraph (1) of
25 subsection b. of this section to the contrary, the tax credit allowed
26 pursuant to this subsection against the tax imposed pursuant to
27 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
28 equal to **[25]** 35 percent of the qualified digital media content
29 production expenses of the taxpayer during a privilege period that
30 are incurred for services performed and tangible personal property
31 purchased through vendors whose primary place of business is
32 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
33 Gloucester, Mercer, or Salem County.

34 c. No tax credit shall be allowed pursuant to this section for
35 any costs or expenses included in the calculation of any other tax
36 credit or exemption granted pursuant to a claim made on a tax
37 return filed with the director, or included in the calculation of an
38 award of business assistance or incentive, for a period of time that
39 coincides with the privilege period for which a tax credit authorized
40 pursuant to this section is allowed. The order of priority in which
41 the tax credit allowed pursuant to this section and any other tax
42 credits allowed by law may be taken shall be as prescribed by the
43 director. The amount of the tax credit applied under this section
44 against the tax imposed pursuant to section 5 of P.L.1945, c.162
45 (C.54:10A-5), for a privilege period, when taken together with any
46 other payments, credits, deductions, and adjustments allowed by
47 law shall not reduce the tax liability of the taxpayer to an amount

1 less than the statutory minimum provided in subsection (e) of
2 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
3 credit otherwise allowable under this section which cannot be
4 applied for the privilege period due to the limitations of this
5 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
6 1 et seq.) may be carried forward, if necessary, to the seven
7 privilege periods following the privilege period for which the tax
8 credit was allowed.

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

40 e. (1) The value of tax credits, including tax credits allowed
41 through the granting of tax credit transfer certificates, approved by
42 the director and the authority pursuant to subsection a. of this
43 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
44 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners
45 and New Jersey film-lease partners, shall not exceed a cumulative
46 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
47 thereafter prior to fiscal year 2035 to apply against the tax imposed

1 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
2 imposed pursuant to the "New Jersey Gross Income Tax Act,"
3 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
4 the value of tax credits approved by the director for New Jersey
5 film-lease partners and the \$100,000,000 limitation on the value of
6 tax credits approved by the director for other taxpayers imposed by
7 this paragraph, the value of tax credits, including tax credits
8 allowed through the granting of tax credit transfer certificates,
9 approved by the director and the authority pursuant to subsection a.
10 of this section and pursuant to subsection a. of section 2 of
11 P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall
12 not exceed a cumulative total of \$100,000,000 in fiscal year 2021
13 and in each fiscal year thereafter prior to fiscal year 2034 to apply
14 against the tax imposed pursuant to section 5 of P.L.1945, c.162
15 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
16 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
17 year 2025, in addition to the \$100,000,000 made available for New
18 Jersey studio partners pursuant to this paragraph, up to an additional
19 \$350,000,000 may be made available annually, in the discretion of
20 the authority, to New Jersey studio partners for the award of tax
21 credits, including tax credits allowed through the granting of tax
22 credit transfer certificates, pursuant to subsection a. of this section
23 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
24 from the funds made available pursuant to subparagraph (i) of
25 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
26 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
27 value of tax credits approved by the director for New Jersey studio
28 partners and the \$100,000,000 limitation on the value of tax credits
29 approved by the director for other taxpayers imposed by this
30 paragraph, the value of tax credits, including tax credits allowed
31 through the granting of tax credit transfer certificates, approved by
32 the director and the authority pursuant to subsection a. of this
33 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
34 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a
35 cumulative total of \$100,000,000 in fiscal year 2021 and in each
36 fiscal year thereafter prior to fiscal year 2034 to apply against the
37 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
38 and the tax imposed pursuant to the "New Jersey Gross Income Tax
39 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio
40 partners and New Jersey film-lease partners shall be subject to
41 award agreements with the authority detailing obligations of the
42 awardee and outcomes relating to events of default, including, but
43 not limited to, recapture, forfeiture, and termination. If in any
44 privilege period, beginning following a date determined by the
45 authority, a New Jersey film-lease partner's annual average of
46 qualified film production expenses falls below \$50,000,000, the
47 authority shall reduce by 20 percent any tax credit award for a film

1 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)
2 has been submitted, until a privilege period when the annual
3 average of qualified film production expenses has been restored to
4 \$50,000,000. The authority shall establish a non-binding,
5 administrative pre-certification process for potentially eligible
6 projects.

7 **【**If the cumulative total amount of tax credits, and tax credit
8 transfer certificates, allowed to taxpayers for privilege periods or
9 taxable years commencing during a single fiscal year under
10 subsection a. of this section and subsection a. of section 2 of
11 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
12 available in that fiscal year, then taxpayers who have first applied
13 for and have not been allowed a tax credit or tax credit transfer
14 certificate amount for that reason shall be allowed, in the order in
15 which they have submitted an application, the amount of tax credit
16 or tax credit transfer certificate on the first day of the next
17 succeeding fiscal year in which tax credits and tax credit transfer
18 certificates under subsection a. of this section and subsection a. of
19 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
20 amount of credits**】** Notwithstanding the limitations set forth in this
21 paragraph, if in any fiscal year the authority receives applications
22 for tax credits under subsection a. of this section and subsection a.
23 of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
24 the total amount of tax credits available for the fiscal year, then the
25 authority may approve applications, in the order in which such
26 applications were submitted, for excess tax credits during the year
27 in which the application was submitted, provided that the amount of
28 excess credits shall be subtracted from the total amounts allowed
29 for the next following fiscal year in which credits are available, and
30 provided further that the taxpayer shall not claim the excess tax
31 credit or tax credit transfer certificate until the first day of the fiscal
32 year from which the credits were made available.

33 Notwithstanding any provision of paragraph (1) of this
34 subsection to the contrary, for any fiscal year in which the amount
35 of tax credits approved pursuant to this paragraph is less than the
36 cumulative total amount of tax credits permitted to be approved in
37 that fiscal year, the authority shall certify the amount of the
38 remaining tax credits available for approval in that fiscal year, and
39 shall increase the cumulative total amount of tax credits permitted
40 to be approved for New Jersey studio partners in the subsequent
41 fiscal year by the certified amount remaining from the prior fiscal
42 year. The authority shall also certify, for each fiscal year, the
43 amount of tax credits that were previously approved, but that the
44 taxpayer is not able to redeem or transfer to another taxpayer under
45 this section, and shall increase the cumulative total amount of tax
46 credits permitted to be approved for New Jersey studio partners in

1 the subsequent fiscal year by the amount of tax credits previously
2 approved, but not subject to redemption or transfer.

3 (2) The value of tax credits, including tax credits allowed
4 through the granting of tax credit transfer certificates, approved by
5 the authority and the director pursuant to subsection b. of this
6 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
7 (C.54A:4-12b) shall not exceed a cumulative total of **[\$10,000,000]**
8 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
9 prior to fiscal year 2035 to apply against the tax imposed pursuant
10 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
11 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
12 et seq.

13 **【If the total amount of tax credits and tax credit transfer**
14 **certificates allowed to taxpayers for privilege periods or taxable**
15 **years commencing during a single fiscal year under subsection b. of**
16 **this section and subsection b. of section 2 of P.L.2018, c.56**
17 **(C.54A:4-12.b) exceeds the amount of tax credits available in that**
18 **year, then taxpayers who have first applied for and have not been**
19 **allowed a tax credit or tax credit transfer certificate amount for that**
20 **reason shall be allowed, in the order in which they have submitted**
21 **an application, the amount of tax credit or tax credit transfer**
22 **certificate on the first day of the next succeeding fiscal year in**
23 **which tax credits and tax credit transfer certificates under**
24 **subsection b. of this section and subsection b. of section 2 of**
25 **P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of**
26 **credits】** Notwithstanding the limitations set forth in this paragraph,
27 if in any fiscal year the authority receives applications for tax
28 credits under subsection b. of this section and subsection b. of
29 section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
30 the total amount of tax credits available for the fiscal year, then the
31 authority may approve applications, in the order in which such
32 applications were submitted, for excess tax credits during the year
33 in which the application was submitted, provided that the amount of
34 excess credits shall be subtracted from the total amounts allowed
35 for the next following fiscal year in which credits are available, and
36 provided further that the taxpayer shall not claim the excess tax
37 credit or tax credit transfer certificate until the first day of the fiscal
38 year from which the credits were made available.

39 Notwithstanding any provision of this paragraph to the contrary,
40 for any fiscal year in which the amount of tax credits approved
41 pursuant to this paragraph is less than the cumulative total amount
42 of tax credits permitted to be approved in that fiscal year, the
43 authority shall certify the amount of the remaining tax credits
44 available for approval in that fiscal year, and shall increase the
45 cumulative total amount of tax credits permitted to be approved in
46 the subsequent fiscal year by the certified amount remaining from
47 the prior fiscal year. The authority shall also certify, for each fiscal

1 year, the amount of tax credits that were previously approved, but
2 that the taxpayer is not able to redeem or transfer to another
3 taxpayer under this section, and shall increase the cumulative total
4 amount of tax credits permitted to be approved in the subsequent
5 fiscal year by the amount of tax credits previously approved, but not
6 subject to redemption or transfer.

7 f. A taxpayer shall submit to the authority and the director a
8 report prepared by an independent certified public accountant
9 licensed in this State to verify the taxpayer's tax credit claim
10 following the completion of the production. The report shall be
11 prepared by the independent certified public accountant pursuant to
12 agreed upon procedures prescribed by the authority and the director,
13 and shall include such information and documentation as shall be
14 determined to be necessary by the authority and the director to
15 substantiate the qualified film production expenses or the qualified
16 digital media content production expenses of the taxpayer. A single
17 report with attachments deemed necessary by the authority shall be
18 submitted electronically. Upon receipt of the report, the authority
19 and the director shall review the findings of the independent
20 certified public accountant's report, and shall make a determination
21 as to the qualified film production expenses or the qualified digital
22 media content production expenses of the taxpayer. The authority's
23 and the director's review shall include, but shall not be limited to: a
24 review of all non-payroll qualified film production expense items
25 and non-payroll digital media content production expense items
26 over \$20,000; a review of 100 randomly selected non-payroll
27 qualified film production expense items and non-payroll digital
28 media content production expense items that are greater than
29 \$2,500, but less than \$20,000; a review of 100 randomly selected
30 non-payroll qualified film production expense items and non-
31 payroll digital media content production expense items that are less
32 than \$2,500; a review of the qualified wages for the 15 employees,
33 independent contractors, or loan-out companies with the highest
34 qualified wages; and a review of the qualified wages for 35
35 randomly selected employees, independent contractors, or loan-out
36 companies with qualified wages other than the 15 employees,
37 independent contractors, or loan-out companies with the highest
38 qualified wages. The taxpayer's qualified film production expenses
39 and digital media content production expenses shall be adjusted
40 based on any discrepancies identified for the reviewed non-payroll
41 qualified film production expense items, non-payroll digital media
42 content production expense items and qualified wages. The
43 taxpayer's qualified film production expenses and digital media
44 content production expenses also shall be adjusted based on the
45 projection of any discrepancies identified based on the review of
46 randomly selected expense items or wages pursuant to this
47 subsection to the extent that the discrepancies exceed one percent of

1 the total reviewed non-payroll qualified film production expense
2 items, non-payroll digital media content production expense items,
3 or qualified wages. The determination shall be provided in writing
4 to the taxpayer, and a copy of the written determination shall be
5 included in the filing of a return that includes a claim for a tax
6 credit allowed pursuant to this section.

7 g. A taxpayer shall withhold from each payment to a loan out
8 company or to an independent contractor an amount equal to 6.37
9 percent of the payment otherwise due. The amounts withheld shall
10 be deemed to be withholding of liability pursuant to the "New
11 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
12 taxpayer shall be deemed to have the rights, duties, and
13 responsibilities of an employer pursuant to chapter 7 of Title 54A of
14 the New Jersey Statutes. The director shall allocate the amounts
15 withheld for a taxable year to the accounts of the individuals who
16 are employees of a loan out company in proportion to the
17 employee's payment by the loan out company in connection with a
18 trade, profession, or occupation carried on in this State or for the
19 rendition of personal services performed in this State during the
20 taxable year. A loan out company that reports its payments to
21 employees in connection with a trade, profession, or occupation
22 carried on in this State or for the rendition of personal services
23 performed in this State during a taxable year shall be relieved of its
24 duties and responsibilities as an employer pursuant to chapter 7 of
25 Title 54A of the New Jersey Statutes for the taxable year for any
26 payments relating to the payments on which the taxpayer withheld.

27 h. As used in this section:

28 "Authority" means the New Jersey Economic Development
29 Authority.

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

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

35 "Digital media content" means any data or information that is
36 produced in digital form, including data or information created in
37 analog form but reformatted in digital form, text, graphics,
38 photographs, animation, sound, and video content. "Digital media
39 content" shall not mean content offerings generated by the end user
40 (including postings on electronic bulletin boards and chat rooms);
41 content offerings comprised primarily of local news, events,
42 weather, or local market reports; public service content; electronic
43 commerce platforms (such as retail and wholesale websites);
44 websites or content offerings that contain obscene material as
45 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
46 content that are produced or maintained primarily for private,
47 industrial, corporate, or institutional purposes; or digital media

1 content acquired or licensed by the taxpayer for distribution or
2 incorporation into the taxpayer's digital media content.

3 "Film" means a feature film, a television series, or a television
4 show of 22 minutes or more in length, intended for a national
5 audience, or a television series or a television show of 22 minutes
6 or more in length intended for a national or regional audience,
7 including, but not limited to, a game show, award show, or other
8 gala event filmed and produced at a nonprofit arts and cultural
9 venue receiving State funding. "Film" shall not include a
10 production featuring news, current events, weather, and market
11 reports or public programming, talk show, or sports event, a
12 production that solicits funds, a production containing obscene
13 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
14 production primarily for private, industrial, corporate, or
15 institutional purposes, or a reality show, except if the production
16 company of the reality show owns, leases, or otherwise occupies a
17 production facility of no less than 20,000 square feet of real
18 property for a minimum term of 24 months, and invests no less than
19 \$3,000,000 in such a facility within a designated enterprise zone
20 established pursuant to the "New Jersey Urban Enterprise Zones
21 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
22 business district established pursuant to section 3 of P.L.2001,
23 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
24 other gala event that is not filmed and produced at a nonprofit arts
25 and cultural venue receiving State funding.

26 "Full-time or full-time equivalent employee" means an individual
27 employed by the taxpayer for consideration for at least 35 hours a
28 week, or who renders any other standard of service generally
29 accepted by custom or practice as full-time or full-time equivalent
30 employment, whose wages are subject to withholding as provided in
31 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
32 who is a partner of a taxpayer, who works for the partnership for at
33 least 35 hours a week, or who renders any other standard of service
34 generally accepted by custom or practice as full-time or full-time
35 equivalent employment, and whose distributive share of income,
36 gain, loss, or deduction, or whose guaranteed payments, or any
37 combination thereof, is subject to the payment of estimated taxes, as
38 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
39 et seq. "Full-time or full-time equivalent employee" shall not
40 include an individual who works as an independent contractor or on
41 a consulting basis for the taxpayer.

42 "Highly compensated individual" means an individual who
43 directly or indirectly receives compensation in excess of \$500,000
44 for the performance of services used directly in a production. An
45 individual receives compensation indirectly when the taxpayer pays
46 a loan out company that, in turn, pays the individual for the
47 performance of services.

1 "Incurred in New Jersey" means, for any application submitted
2 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
3 pursuant to which a tax credit has not been allowed prior to the
4 effective date of P.L.2021, c.160, service performed within New
5 Jersey and tangible personal property used or consumed in New
6 Jersey. A service is performed in New Jersey to the extent that the
7 individual performing the service is physically located in New
8 Jersey while performing the service. Notwithstanding where the
9 property is delivered or acquired, rented tangible property is used or
10 consumed in New Jersey to the extent that the property is located in
11 New Jersey during its use or consumption and is rented from a
12 vendor authorized to do business in New Jersey or the film
13 production company provides to the authority the vendor's
14 information in a form and manner prescribed by the authority.
15 Purchased tangible property is not used and consumed in New
16 Jersey unless it is purchased from a vendor authorized to do
17 business in New Jersey and is delivered to or acquired within New
18 Jersey; provided, however, that if a production is also located in
19 another jurisdiction, the purchased tangible property is used and
20 consumed in New Jersey if the acquisition and delivery of
21 purchased tangible property is located in either New Jersey or
22 another jurisdiction where the production takes place.

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

27 "Loan out company" means a personal service corporation or
28 other entity that is contracted with by the taxpayer to provide
29 specified individual personnel, such as artists, crew, actors,
30 producers, or directors for the performance of services used directly
31 in a production. "Loan out company" shall not include entities
32 contracted with by the taxpayer to provide goods or ancillary
33 contractor services such as catering, construction, trailers,
34 equipment, or transportation.

35 "New Jersey film-lease partner" means a taxpayer, including any
36 taxpayer that is a member of a combined group under P.L.2018,
37 c.131 (C.54:10A-4.11), that has made a commitment to lease or
38 acquire all or part of a New Jersey production facility **【with】** ,
39 which leased or acquired space shall have an aggregate square
40 footage of at least 50,000 square feet, **【which includes】** including a
41 sound stage and production support space, such as production
42 offices or a backlot, for a period of five or more successive years
43 and commits to spend, on a separate-entity basis or in the aggregate
44 with other members of the taxpayer's combined group, an annual
45 average of \$50,000,000 of qualified film production expenses over
46 the period of at least five but not to exceed 10 years.

1 "New Jersey studio partner" means a film production company
2 that has made a commitment to produce films or commercial
3 audiovisual products in New Jersey and has developed, purchased,
4 or executed a 10-year contract to lease a production facility of
5 250,000 square feet or more as a "transformative project" pursuant
6 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
7 three film production companies may be designated as a New Jersey
8 studio partner.

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

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

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

20 "Qualified digital media content production expenses" means an
21 expense incurred in New Jersey for the production of digital media
22 content. "Qualified digital media content production expenses"
23 shall include but not be limited to: wages and salaries of individuals
24 employed in the production of digital media content on which the
25 tax imposed by the "New Jersey Gross Income Tax Act,"
26 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
27 computer software and hardware, data processing, visualization
28 technologies, sound synchronization, editing, and the rental of
29 facilities and equipment. Payment made to a loan out company or
30 to an independent contractor shall not be deemed a "qualified digital
31 media content production expense" unless the payment is made in
32 connection with a trade, profession, or occupation carried on in this
33 State or for the rendition of personal services performed in this
34 State and the taxpayer has made the withholding required pursuant
35 to subsection g. of this section. "Qualified digital media content
36 production expenses" shall not include expenses incurred in
37 marketing, promotion, or advertising digital media or other costs
38 not directly related to the production of digital media content.
39 Costs related to the acquisition or licensing of digital media content
40 by the taxpayer for distribution or incorporation into the taxpayer's
41 digital media content shall not be deemed "qualified digital media
42 content production expenses."

43 "Qualified film production expenses" means an expense incurred
44 in New Jersey for the production of a film including pre-production
45 costs and post-production costs incurred in New Jersey. "Qualified
46 film production expenses" shall include but not be limited to:
47 wages and salaries of individuals employed in the production of a

1 film on which the tax imposed by the "New Jersey Gross Income
2 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
3 costs for tangible personal property used, and services performed,
4 directly and exclusively in the production of a film, such as
5 expenditures for film production facilities, props, makeup,
6 wardrobe, film processing, camera, sound recording, set
7 construction, lighting, shooting, editing, and meals. Payment made
8 to a loan out company or to an independent contractor shall not be
9 deemed a "qualified film production expense" unless the payment is
10 made in connection with a trade, profession, or occupation carried
11 on in this State or for the rendition of personal services performed
12 in this State and the taxpayer has made the withholding required
13 pursuant to subsection g. of this section. "Qualified film production
14 expenses" shall not include: expenses incurred in marketing or
15 advertising a film; and payment in excess of \$500,000 to a highly
16 compensated individual for costs for a story, script, or scenario used
17 in the production of a film and wages or salaries or other
18 compensation for writers, directors, including music directors,
19 producers, and performers, other than background actors with no
20 scripted lines, except as follows:

21 (1) for a New Jersey studio partner that incurs more than
22 \$15,000,000, but less than \$50,000,000, in qualified film production
23 expenses in the State, an amount, not to exceed \$15,000,000, of the
24 wages or salaries or other compensation for writers, directors,
25 including music directors, producers, and performers, other than
26 background actors with no scripted lines, shall constitute qualified
27 film production expenses;

28 (2) for a New Jersey studio partner that incurs \$50,000,000 or
29 more, but less than \$100,000,000, in qualified film production
30 expenses in the State, an amount, not to exceed \$25,000,000, of the
31 wages or salaries or other compensation for writers, directors,
32 including music directors, producers, and performers, other than
33 background actors with no scripted lines, shall constitute qualified
34 film production expenses;

35 (3) for a New Jersey studio partner that incurs \$100,000,000 or
36 more, but less than \$150,000,000, in qualified film production
37 expenses in the State, an amount, not to exceed \$40,000,000, of the
38 wages or salaries or other compensation for writers, directors,
39 including music directors, producers, and performers, other than
40 background actors with no scripted lines, shall constitute qualified
41 film production expenses; **[and]**

42 (4) for a New Jersey studio partner that incurs \$150,000,000 or
43 more in qualified film production expenses in the State, an amount,
44 not to exceed \$60,000,000, of the wages or salaries or other
45 compensation for writers, directors, including music directors,
46 producers, and performers, other than background actors with no

1 scripted lines, shall constitute qualified film production expenses;
2 and

3 (5) for a New Jersey film-lease partner, an amount, not to
4 exceed \$15,000,000, of the payments in excess of \$500,000 to each
5 highly compensated individual for costs for a story, script, or
6 scenario used in the production of a film and wages or salaries or
7 other compensation for writers, directors, including music directors,
8 producers, and performers, other than background actors with no
9 scripted lines, shall constitute qualified film production expenses.

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

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

16 i. A business that is not a "taxpayer" as defined and used in the
17 "Corporation Business Tax Act (1945)," P.L.1945, c.162
18 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
19 under this section, but is a business entity that is classified as a
20 partnership for federal income tax purposes and is ultimately owned
21 by a business entity that is a "corporation" as defined in subsection
22 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
23 liability company formed under the "Revised Uniform Limited
24 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
25 qualified to do business in this State as a foreign limited liability
26 company, with one member, and is wholly owned by the business
27 entity that is a "corporation" as defined in subsection (c) of section
28 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
29 requirements of this section, shall be considered an eligible
30 applicant and "taxpayer" as that term is used in this section.
31 (cf: P.L.2021, c.160, s.58)

32

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

35 2. a. (1) A taxpayer, upon approval of an application to the
36 authority and the director, shall be allowed a credit against the tax
37 otherwise due for the taxable year under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35
39 percent of the qualified film production expenses of the taxpayer
40 during a taxable year commencing on or after July 1, 2018 but
41 before July 1, 2034, provided that:

42 (a) at least 60 percent of the total film production expenses,
43 exclusive of post-production costs, of the taxpayer are incurred for
44 services performed, and goods purchased through vendors
45 authorized to do business, in New Jersey, or the qualified film
46 production expenses of the taxpayer during the taxable year for
47 services performed, and goods purchased, through vendors

- 1 authorized to do business in New Jersey, exceed \$1,000,000 per
2 production;
- 3 (b) principal photography of the film commences within 180
4 days from the date of the original application for the tax credit;
- 5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an appropriate logo
10 approved by the commission, in the end credits of the film;
- 11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection g. of this section; and
- 14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection h. of this section.
- 17 (2) Notwithstanding the provisions of paragraph (1) of
18 subsection a. of this section to the contrary, the tax credit allowed
19 pursuant to this subsection against the tax otherwise due for the
20 taxable year under the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq., shall be in an amount equal to 30 percent of
22 the qualified film production expenses of the taxpayer during a
23 taxable year that are incurred for services performed and tangible
24 personal property purchased for use at a sound stage or other
25 location that is located in the State within a 30-mile radius of the
26 intersection of Eighth Avenue/Central Park West, Broadway, and
27 West 59th Street/Central Park South, New York, New York.
- 28 b. (1) A taxpayer, upon approval of an application to the
29 authority and the director, shall be allowed a credit against the tax
30 otherwise due for the taxable year under the "New Jersey Gross
31 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:
32 **[20]** 30 percent of the qualified digital media content production
33 expenses of the taxpayer during a taxable year commencing on or
34 after July 1, 2018 but before July 1, 2034, provided that:
- 35 (a) at least \$2,000,000 of the total digital media content
36 production expenses of the taxpayer are incurred for services
37 performed, and goods purchased through vendors authorized to do
38 business, in New Jersey;
- 39 (b) at least 50 percent of the qualified digital media content
40 production expenses of the taxpayer are for wages and salaries paid
41 to full-time or full-time equivalent employees in New Jersey;
- 42 (c) the taxpayer submits a tax credit verification report prepared
43 by an independent certified public accountant licensed in this State
44 in accordance with subsection g. of this section; and
- 45 (d) the taxpayer complies with the withholding requirements
46 provided for payments to loan out companies and independent
47 contractors in accordance with subsection h. of this section.

1 (2) Notwithstanding the provisions of paragraph (1) of
2 subsection b. of this section to the contrary, the tax credit allowed
3 pursuant to this subsection against the tax otherwise due for the
4 taxable year under the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[25]** 35
6 percent for the qualified digital media content production expenses
7 of the taxpayer during a taxable year that are incurred for services
8 performed and tangible personal property purchased through
9 vendors whose primary place of business is located in Atlantic,
10 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
11 or Salem County.

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

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

41 (2) A New Jersey S Corporation shall not be allowed a tax credit
42 pursuant to this section directly, but the amount of tax credit of a
43 taxpayer in respect of a pro rata share of S Corporation income,
44 shall be determined by allocating to the taxpayer that proportion of
45 the tax credit acquired by the New Jersey S Corporation that is
46 equal to the taxpayer's share, whether or not distributed, of the total
47 pro rata share of S Corporation income of the New Jersey S

1 Corporation for its privilege period ending within or with the
2 taxpayer's taxable year.

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

12 e. A taxpayer, with an application for a tax credit provided for
13 in subsection a. or subsection b. of this section, may apply to the
14 authority and the director for a tax credit transfer certificate in lieu
15 of the taxpayer being allowed any amount of the tax credit against
16 the tax liability of the taxpayer. The tax credit transfer certificate,
17 upon receipt thereof by the taxpayer from the authority and the
18 director, may be sold or assigned, in full or in part, to any other
19 taxpayer that may have a tax liability under the "New Jersey Gross
20 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
21 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
22 exchange for private financial assistance to be provided by the
23 purchaser or assignee to the taxpayer that has applied for and been
24 granted the tax credit. The tax credit transfer certificate provided to
25 the taxpayer shall include a statement waiving the taxpayer's right
26 to claim that amount of the tax credit against the tax imposed
27 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
28 sell or assign. The sale or assignment of any amount of a tax credit
29 transfer certificate allowed under this section shall not be
30 exchanged for consideration received by the taxpayer of less than
31 75 percent of the transferred tax credit amount. Any amount of a
32 tax credit transfer certificate used by a purchaser or assignee against
33 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
34 same limitations and conditions that apply to the use of a tax credit
35 pursuant to subsections c. and d. of this section. Any amount of a
36 tax credit transfer certificate obtained by a purchaser or assignee
37 under subsection e. of this section may be applied against the
38 purchaser's or assignee's tax liability under P.L.1945, c.162
39 (C.54:10A-1 et seq.) and shall be subject to the same limitations
40 and conditions that apply to the use of a credit pursuant to
41 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

42 f. (1) The value of tax credits, including tax credits allowed
43 through the granting of tax credit transfer certificates, approved by
44 the director and the authority pursuant to subsection a. of this
45 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
46 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio
47 partners and New Jersey film-lease partners, shall not exceed a

1 cumulative total of \$100,000,000 in fiscal year 2019 and in each
2 fiscal year thereafter prior to fiscal year 2035 to apply against the
3 tax imposed pursuant to the "New Jersey Gross Income Tax Act,"
4 N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162
5 (C.54:10A-5). In addition to the \$100,000,000 limitation on the
6 value of tax credits approved by the director for New Jersey film-
7 lease partners and the \$100,000,000 limitation on the value of tax
8 credits approved by the director for other taxpayers imposed by this
9 paragraph, the value of tax credits, including tax credits allowed
10 through the granting of tax credit transfer certificates, approved by
11 the director and the authority pursuant to subsection a. of this
12 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
13 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a
14 cumulative total of \$100,000,000 in fiscal year 2021 and in each
15 fiscal year thereafter prior to fiscal year 2034 to apply against the
16 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
17 and the tax imposed pursuant to the "New Jersey Gross Income Tax
18 Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in
19 addition to the \$100,000,000 made available for New Jersey studio
20 partners pursuant to this paragraph, up to an additional
21 \$350,000,000 may be made available annually, in the discretion of
22 the authority, to New Jersey studio partners for the award of tax
23 credits, including tax credits allowed through the granting of tax
24 credit transfer certificates, pursuant to subsection a. of this section
25 and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b),
26 from the funds made available pursuant to subparagraph (i) of
27 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
28 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
29 value of tax credits approved by the director for New Jersey studio
30 partners and the \$100,000,000 limitation on the value of tax credits
31 approved by the director for other taxpayers imposed by this
32 paragraph, the value of tax credits, including tax credits allowed
33 through the granting of tax credit transfer certificates, approved by
34 the director and the authority pursuant to subsection a. of this
35 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
36 (C.54:10A-5.39b) to New Jersey film-lease partners shall not
37 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
38 in each fiscal year thereafter prior to fiscal year 2034 to apply
39 against the tax imposed pursuant to section 5 of P.L.1945, c.162
40 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
41 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to
42 New Jersey studio partners and New Jersey film-lease partners shall
43 be subject to award agreements with the authority detailing
44 obligations of the awardee and outcomes relating to events of
45 default, including, but not limited to, recapture, forfeiture, and
46 termination. If in any taxable year, beginning following a date
47 determined by the authority, a New Jersey film-lease partner's

1 annual average of qualified film production expenses falls below
2 \$50,000,000, the authority shall reduce by 20 percent any tax credit
3 award for a film for which final documentation pursuant to
4 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year
5 when the annual average of qualified film production expenses has
6 been restored to \$50,000,000. The authority shall establish a non-
7 binding, administrative pre-certification process for potentially
8 eligible projects.

9 **【**If the cumulative total amount of tax credits, and tax credit
10 transfer certificates, allowed to taxpayers for taxable years or
11 privilege periods commencing during a single fiscal year under
12 subsection a. of this section and subsection a. of section 1 of
13 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
14 available in that fiscal year, then taxpayers who have first applied
15 for and have not been allowed a tax credit or tax credit transfer
16 certificate amount for that reason shall be allowed, in the order in
17 which they have submitted an application, the amount of tax credit
18 or tax credit transfer certificate on the first day of the next
19 succeeding fiscal year in which tax credits and tax credit transfer
20 certificates under subsection a. of this section and subsection a. of
21 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
22 the amount of credits**】** Notwithstanding the limitations set forth in
23 this paragraph, if in any fiscal year the authority receives
24 applications for tax credits under subsection a. of this section and
25 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in
26 amounts exceeding the total amount of tax credits available for the
27 fiscal year, then the authority may approve applications, in the order
28 in which such applications were submitted, for excess tax credits
29 during the year in which the application was submitted, provided
30 that the amount of excess credits shall be subtracted from the total
31 amounts allowed for the next following fiscal year in which credits
32 are available, and provided further that the taxpayer shall not claim
33 the excess tax credit or tax credit transfer certificate until the first
34 day of the fiscal year from which the credits were made available.

35 Notwithstanding any provision of paragraph (1) of this
36 subsection to the contrary, for any fiscal year in which the amount
37 of tax credits approved pursuant to this paragraph is less than the
38 cumulative total amount of tax credits permitted to be approved in
39 that fiscal year, the authority shall certify the amount of the
40 remaining tax credits available for approval in that fiscal year, and
41 shall increase the cumulative total amount of tax credits permitted
42 to be approved for New Jersey studio partners in the subsequent
43 fiscal year by the certified amount remaining from the prior fiscal
44 year. The authority shall also certify, for each fiscal year, the
45 amount of tax credits that were previously approved, but that the
46 taxpayer is not able to redeem or transfer to another taxpayer under
47 this section, and shall increase the cumulative total amount of tax

1 credits permitted to be approved for New Jersey studio partners in
2 the subsequent fiscal year by the amount of tax credits previously
3 approved, but not subject to redemption or transfer.

4 (2) The value of tax credits, including tax credits allowed
5 through the granting of tax credit transfer certificates, approved by
6 the authority and the director pursuant to subsection b. of this
7 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
8 (C.54:10A-5.39b) shall not exceed a cumulative total of
9 **【\$10,000,000】** \$30,000,000 in fiscal year 2019 and in each fiscal
10 year thereafter prior to fiscal year 2035 to apply against the tax
11 imposed pursuant to the "New Jersey Gross Income Tax Act,"
12 N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of
13 P.L.1945, c.162 (C.54:10A-5).

14 **【If the total amount of tax credits and tax credit transfer**
15 **certificates allowed to taxpayers for taxable years or privilege**
16 **periods commencing during a single fiscal year under subsection b.**
17 **of this section and subsection b. of section 1 of P.L.2018, c.56**
18 **(C.54:10A-5.39b) exceeds the amount of tax credits available in**
19 **that year, then taxpayers who have first applied for and have not**
20 **been allowed a tax credit or tax credit transfer certificate amount for**
21 **that reason shall be allowed, in the order in which they have**
22 **submitted an application, the amount of tax credit or tax credit**
23 **transfer certificate on the first day of the next succeeding fiscal year**
24 **in which tax credits and tax credit transfer certificates under**
25 **subsection b. of this section and subsection b. of section 1 of**
26 **P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of**
27 **credits】** Notwithstanding the limitations set forth in this paragraph,
28 if in any fiscal year the authority receives applications for tax
29 credits under subsection b. of this section and subsection b. of
30 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in amounts exceeding
31 the total amount of tax credits available for the fiscal year, then the
32 authority may approve applications, in the order in which such
33 applications were submitted, for excess tax credits during the year
34 in which the application was submitted, provided that the amount of
35 excess credits shall be subtracted from the total amounts allowed
36 for the next following fiscal year in which credits are available, and
37 provided further that the taxpayer shall not claim the excess tax
38 credit or tax credit transfer certificate until the first day of the fiscal
39 year from which the credits were made available.

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

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

8 g. A taxpayer shall submit to the authority and the director a
9 report prepared by an independent certified public accountant
10 licensed in this State to verify the taxpayer's tax credit claim
11 following the completion of the production. The report shall be
12 prepared by the independent certified public accountant pursuant to
13 agreed upon procedures prescribed by the authority and the director,
14 and shall include such information and documentation as shall be
15 determined to be necessary by the authority and the director to
16 substantiate the qualified film production expenses or the qualified
17 digital media content production expenses of the taxpayer. A single
18 report with attachments deemed necessary by the authority shall be
19 submitted electronically. Upon receipt of the report, the authority
20 and the director shall review the findings of the independent
21 certified public accountant's report, and shall make a determination
22 as to the qualified film production expenses or the qualified digital
23 media content production expenses of the taxpayer. The authority's
24 and the director's review shall include, but shall not be limited to: a
25 review of all non-payroll qualified film production expense items
26 and non-payroll digital media content production expense items
27 over \$20,000; a review of 100 randomly selected non-payroll
28 qualified film production expense items and non-payroll digital
29 media content production expense items that are greater than
30 \$2,500, but less than \$20,000; a review of 100 randomly selected
31 non-payroll qualified film production expense items and non-
32 payroll digital media content production expense items that are less
33 than \$2,500; a review of the qualified wages for the 15 employees,
34 independent contractors, or loan-out companies with the highest
35 qualified wages; and a review of the qualified wages for 35
36 randomly selected employees, independent contractors, or loan-out
37 companies with qualified wages other than the 15 employees,
38 independent contractors, or loan-out companies with the highest
39 qualified wages. The taxpayer's qualified film production expenses
40 and digital media content production expenses shall be adjusted
41 based on any discrepancies identified for the reviewed non-payroll
42 qualified film production expense items, non-payroll digital media
43 content production expense items and qualified wages. The
44 taxpayer's qualified film production expenses and digital media
45 content production expenses also shall be adjusted based on the
46 projection of any discrepancies identified based on the review of
47 randomly selected expense items or wages pursuant to this

1 subsection to the extent that the discrepancies exceed one percent of
2 the total reviewed non-payroll qualified film production expense
3 items, non-payroll digital media content production expense items,
4 or qualified wages. The determination shall be provided in writing
5 to the taxpayer, and a copy of the written determination shall be
6 included in the filing of a return that includes a claim for a tax
7 credit allowed pursuant to this section.

8 h. A taxpayer shall withhold from each payment to a loan out
9 company or to an independent contractor an amount equal to 6.37
10 percent of the payment otherwise due. The amounts withheld shall
11 be deemed to be withholding of liability pursuant to the "New
12 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
13 taxpayer shall be deemed to have the rights, duties, and
14 responsibilities of an employer pursuant to chapter 7 of Title 54A of
15 the New Jersey Statutes. The director shall allocate the amounts
16 withheld for a taxable year to the accounts of the individuals who
17 are employees of a loan out company in proportion to the
18 employee's payment by the loan out company in connection with a
19 trade, profession, or occupation carried on in this State or for the
20 rendition of personal services performed in this State during the
21 taxable year. A loan out company that reports its payments to
22 employees in connection with a trade, profession, or occupation
23 carried on in this State or for the rendition of personal services
24 performed in this State during a taxable year shall be relieved of its
25 duties and responsibilities as an employer pursuant to chapter 7 of
26 Title 54A of the New Jersey Statutes for the taxable year for any
27 payments relating to the payments on which the taxpayer withheld.

28 i. As used in this section:

29 "Authority" means the New Jersey Economic Development
30 Authority.

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

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

36 "Digital media content" means any data or information that is
37 produced in digital form, including data or information created in
38 analog form but reformatted in digital form, text, graphics,
39 photographs, animation, sound, and video content. "Digital media
40 content" shall not mean content offerings generated by the end user
41 (including postings on electronic bulletin boards and chat rooms);
42 content offerings comprised primarily of local news, events,
43 weather or local market reports; public service content; electronic
44 commerce platforms (such as retail and wholesale websites);
45 websites or content offerings that contain obscene material as
46 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
47 content that are produced or maintained primarily for private,

1 industrial, corporate, or institutional purposes; or digital media
2 content acquired or licensed by the taxpayer for distribution or
3 incorporation into the taxpayer's digital media content.

4 "Film" means a feature film, a television series, or a television
5 show of 22 minutes or more in length, intended for a national
6 audience, or a television series or a television show of 22 minutes
7 or more in length intended for a national or regional audience,
8 including, but not limited to, a game show, award show, or other
9 gala event filmed and produced at a nonprofit arts and cultural
10 venue receiving State funding. "Film" shall not include a
11 production featuring news, current events, weather, and market
12 reports or public programming, talk show, sports event, or reality
13 show, a production that solicits funds, a production containing
14 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
15 3, or a production primarily for private, industrial, corporate, or
16 institutional purposes. "Film" shall not include an award show or
17 other gala event that is not filmed and produced at a nonprofit arts
18 and cultural venue receiving State funding.

19 "Full-time or full-time equivalent employee" means an individual
20 employed by the taxpayer for consideration for at least 35 hours a
21 week, or who renders any other standard of service generally
22 accepted by custom or practice as full-time or full-time equivalent
23 employment, whose wages are subject to withholding as provided in
24 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
25 who is a partner of a taxpayer, who works for the partnership for at
26 least 35 hours a week, or who renders any other standard of service
27 generally accepted by custom or practice as full-time or full-time
28 equivalent employment, and whose distributive share of income,
29 gain, loss, or deduction, or whose guaranteed payments, or any
30 combination thereof, is subject to the payment of estimated taxes, as
31 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
32 et seq. "Full-time or full-time equivalent employee" shall not
33 include an individual who works as an independent contractor or on
34 a consulting basis for the taxpayer.

35 "Highly compensated individual" means an individual who
36 directly or indirectly receives compensation in excess of \$500,000
37 for the performance of services used directly in a production. An
38 individual receives compensation indirectly when the taxpayer pays
39 a loan out company that, in turn, pays the individual for the
40 performance of services.

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

1 Jersey while performing the service. Notwithstanding where the
2 property is delivered or acquired, rented tangible property is used or
3 consumed in New Jersey to the extent that the property is located in
4 New Jersey during its use or consumption and is rented from a
5 vendor authorized to do business in New Jersey or the film
6 production company provides to the authority the vendor's
7 information in a form and manner prescribed by the authority.
8 Purchased tangible property is not used and consumed in New
9 Jersey unless it is purchased from a vendor authorized to do
10 business in New Jersey and is delivered to or acquired within New
11 Jersey; provided, however, that if a production is also located in
12 another jurisdiction, the purchased tangible property is used and
13 consumed in New Jersey if the acquisition and delivery of
14 purchased tangible property is located in either New Jersey or
15 another jurisdiction where the production takes place.

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

20 "Loan out company" means a personal service corporation or
21 other entity that is contracted with by the taxpayer to provide
22 specified individual personnel, such as artists, crew, actors,
23 producers, or directors for the performance of services used directly
24 in a production. "Loan out company" shall not include entities
25 contracted with by the taxpayer to provide goods or ancillary
26 contractor services such as catering, construction, trailers,
27 equipment, or transportation.

28 "New Jersey film-lease partner" means a taxpayer, including any
29 taxpayer that is a member of a combined group under P.L.2018,
30 c.131 (C:54:10A-4.11), that has made a commitment to lease or
31 acquire all or part of a New Jersey production facility **[with]** which leased or acquired space shall have an aggregate square
32 footage of at least 50,000 square feet, **[which includes]** including a
33 sound stage and production support space, such as production
34 offices or a backlot, for a period of five or more successive years
35 and commits to spend, on a separate-entity basis or in the aggregate
36 with other members of the taxpayer's combined group, an annual
37 average of \$50,000,000 of qualified film production expenses over
38 the period of at least five but not to exceed 10 years.

40 "New Jersey studio partner" means a film production company
41 that has made a commitment to produce films or commercial
42 audiovisual products in New Jersey and has developed, purchased,
43 or executed a 10-year contract to lease a production facility of
44 250,000 square feet or more as a "transformative project" pursuant
45 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
46 three film production companies may be designated as a New Jersey
47 studio partner.

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

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

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

12 "Qualified digital media content production expenses" means an
13 expense incurred in New Jersey for the production of digital media
14 content. "Qualified digital media content production expenses"
15 shall include but not be limited to: wages and salaries of individuals
16 employed in the production of digital media content on which the
17 tax imposed by the "New Jersey Gross Income Tax Act,"
18 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
19 computer software and hardware, data processing, visualization
20 technologies, sound synchronization, editing, and the rental of
21 facilities and equipment. Payment made to a loan out company or
22 to an independent contractor shall not be deemed a "qualified digital
23 media content production expense" unless the payment is made in
24 connection with a trade, profession, or occupation carried on in this
25 State or for the rendition of personal services performed in this
26 State and the taxpayer has made the withholding required pursuant
27 to subsection h. of this section. "Qualified digital media content
28 production expenses" shall not include expenses incurred in
29 marketing, promotion, or advertising digital media or other costs
30 not directly related to the production of digital media content.
31 Costs related to the acquisition or licensing of digital media content
32 by the taxpayer for distribution or incorporation into the taxpayer's
33 digital media content shall not be deemed "qualified digital media
34 content production expenses."

35 "Qualified film production expenses" means an expense incurred
36 in New Jersey for the production of a film including pre-production
37 costs and post-production costs incurred in New Jersey. "Qualified
38 film production expenses" shall include but not be limited to:
39 wages and salaries of individuals employed in the production of a
40 film on which the tax imposed by the "New Jersey Gross Income
41 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
42 costs for tangible personal property used, and services performed,
43 directly and exclusively in the production of a film, such as
44 expenditures for film production facilities, props, makeup,
45 wardrobe, film processing, camera, sound recording, set
46 construction, lighting, shooting, editing, and meals. Payment made
47 to a loan out company or to an independent contractor shall not be

1 deemed a "qualified film production expense" unless the payment is
2 made in connection with a trade, profession, or occupation carried
3 on in this State or for the rendition of personal services performed
4 in this State and the taxpayer has made the withholding required by
5 subsection h. of this section. "Qualified film production expenses"
6 shall not include: expenses incurred in marketing or advertising a
7 film; and payment in excess of \$500,000 to a highly compensated
8 individual for costs for a story, script, or scenario used in the
9 production of a film and wages or salaries or other compensation
10 for writers, directors, including music directors, producers, and
11 performers, other than background actors with no scripted lines,
12 except as follows:

13 (1) for a New Jersey studio partner that incurs more than
14 \$15,000,000, but less than \$50,000,000, in qualified film production
15 expenses in the State, an amount, not to exceed \$15,000,000, of the
16 wages or salaries or other compensation for writers, directors,
17 including music directors, producers, and performers, other than
18 background actors with no scripted lines, shall constitute qualified
19 film production expenses;

20 (2) for a New Jersey studio partner that incurs \$50,000,000 or
21 more, but less than \$100,000,000, in qualified film production
22 expenses in the State, an amount, not to exceed \$25,000,000, of the
23 wages or salaries or other compensation for writers, directors,
24 including music directors, producers, and performers, other than
25 background actors with no scripted lines, shall constitute qualified
26 film production expenses;

27 (3) for a New Jersey studio partner that incurs \$100,000,000 or
28 more, but less than \$150,000,000, in qualified film production
29 expenses in the State, an amount, not to exceed \$40,000,000, of the
30 wages or salaries or other compensation for writers, directors,
31 including music directors, producers, and performers, other than
32 background actors with no scripted lines, shall constitute qualified
33 film production expenses; **[and]**

34 (4) for a New Jersey studio partner that incurs \$150,000,000 or
35 more in qualified film production expenses in the State, an amount,
36 not to exceed \$60,000,000, of the wages or salaries or other
37 compensation for writers, directors, including music directors,
38 producers, and performers, other than background actors with no
39 scripted lines, shall constitute qualified film production expenses;
40 and

41 (5) for a New Jersey film-lease partner, an amount, not to
42 exceed \$15,000,000, of the payments in excess of \$500,000 to each
43 highly compensated individual for costs for a story, script, or
44 scenario used in the production of a film and wages or salaries or
45 other compensation for writers, directors, including music directors,
46 producers, and performers, other than background actors with no
47 scripted lines, shall constitute qualified film production expenses.

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

4 "Total film production expenses" means costs for services
5 performed and tangible personal property used or consumed in the
6 production of a film.
7 (cf: P.L.2021, c.160, s.59)

8

9 3. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill makes various changes to the film and digital media
15 content production tax credit program, including increasing the
16 amount of the digital media content production tax credit, allowing
17 certain compensation to be included within the computation of
18 qualified film production expenses, and revising the definition of
19 "New Jersey film-lease partner."

20 Under the film and digital media content production tax credit
21 program, the State awards tax credits to eligible taxpayers equal to:
22 (1) 30 percent of the qualified film production expenses incurred for
23 use within certain parts of Northern New Jersey, or 35 percent of
24 the qualified film production expenses incurred for use within all
25 other parts of the State; and (2) 25 percent of the qualified digital
26 media content production expenses purchased through vendors
27 located in certain counties in Southern New Jersey, or 20 percent of
28 all other qualified digital media content production expenses
29 purchased within the State.

30 Under the bill, the amount of the digital media content
31 production portion of the tax credit program would be increased.
32 Specifically, the bill increases the digital media content production
33 tax credit to 35 percent of the qualified digital media content
34 production expenses purchased through vendors located in certain
35 counties in Southern New Jersey, or 30 percent of all other qualified
36 digital media content production expenses purchased within the
37 State. In addition, the bill increases the cumulative annual
38 limitation on digital media content production tax credits from \$10
39 million to \$30 million.

40 The bill also modifies the definition of "qualified film
41 production expenses" to include amounts paid by New Jersey film-
42 lease partners for certain employees. Except for certain allowances
43 for New Jersey studio partners, current law generally prohibits
44 qualified film production expenses from including any payments in
45 excess of \$500,000 for: (1) a highly compensated individual for
46 costs for a story, script, or scenario used in the production of a film;
47 and (2) the wages or salaries or other compensation for writers,

1 directors, including music directors, producers, and performers,
2 other than background actors with no scripted lines. However, this
3 bill would instead allow a New Jersey film-lease partner to include
4 up to \$15 million of these payments, in excess of current
5 allowances, in the computation of qualified film production
6 expenses.

7 The bill also provides that when the New Jersey Economic
8 Development Authority receives applications for more tax credits
9 than are available in any given fiscal year, then the authority may
10 approve applications for excess tax credits during the year in which
11 such applications were submitted, provided that the amount of
12 excess credits would be subtracted from the amounts otherwise
13 available in the next succeeding fiscal years. However, a taxpayer
14 may not claim the excess tax credits or tax credit transfer
15 certificates until the first day of the fiscal year from which the
16 credits were made available.

17 Additionally, the bill revises the definition of “New Jersey film-
18 lease partner.” Under current law, the term includes taxpayers who
19 commit to lease or acquire a New Jersey production facility, with an
20 aggregate square footage of at least 50,000 square feet, for a period
21 of five or more years, and who commit to spending an annual
22 average of \$50 million in qualified film production expenses over a
23 designated period of five to 10 years. The bill revises this
24 definition to allow for a New Jersey film-lease partner to lease or
25 acquire a portion of a New Jersey production facility, provided that
26 the leased or acquired portion has an aggregate square footage of at
27 least 50,000 square feet and otherwise meets the requirements of
28 existing law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4094

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4094, with committee amendments.

As amended, this bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the film and digital media content production tax credit program, the State awards tax credits to eligible taxpayers equal to: (1) 30 percent of the qualified film production expenses incurred for use within certain parts of Northern New Jersey, or 35 percent of the qualified film production expenses incurred for use within all other parts of the State; and (2) 25 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 20 percent of all other qualified digital media content production expenses purchased within the State.

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also extends the diversity bonus tax credit program’s duration from 2028 to 2034, allows it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers.

Additionally, the bill revises the definition of “New Jersey film-lease partner.” Under current law, the term includes taxpayers who

commit to lease or acquire a New Jersey production facility, with an aggregate square footage of at least 50,000 square feet, for a period of five or more years, and who commit to spending an annual average of \$50 million in qualified film production expenses over a designated period of five to 10 years. The bill revises this definition to allow for a New Jersey film-lease partner to lease or acquire a portion of a New Jersey production facility, provided that the leased or acquired portion has an aggregate square footage of at least 50,000 square feet and otherwise meets the requirements of existing law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) allow an additional \$100 million in tax credits to be annually made available to New Jersey film-lease partners beginning in Fiscal Year 2025, which credits would be distributed from funds otherwise set aside for New Jersey studio partners;

(2) remove a provision allowing the authority to approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the next succeeding fiscal years

(3) change the treatment of excess credit applications in a fiscal year and allowing the authority to reallocate unused credits among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners;

(4) expand the definition of "New Jersey studio partner" to no longer require that a production company commit to a transformative project;

(5) restrict the definition of "qualified film production expenses" for a New Jersey film-lease partner to no longer include amounts in excess of \$500,000 to highly compensated individuals;

(6) extend the diversity bonus tax credit program's duration from 2028 to 2034, allow it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers; and

(7) make technical corrections.

FISCAL IMPACT:

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the

lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.

STATEMENT TO
[First Reprint]
SENATE, No. 4094

with Assembly Floor Amendments
(Proposed by Assemblyman JOHNSON)

ADOPTED: JANUARY 10, 2022

This floor amendment clarifies certain residency requirements for credited and uncredited performers as part of a taxpayer's diversity plan. The diversity plan allows for a taxpayer to receive an enhanced credit award based on four percent of the qualified film or digital media content production expenses of the taxpayer.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 4094
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 13, 2021

SUMMARY

Synopsis: Makes changes to film and digital media content production tax credit program.

Type of Impact: Potential decrease in State revenue associated with enhanced credit awards and cap limits.

Agencies Affected: New Jersey Economic Development Authority

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
State Revenue Loss	Up to \$20 million	Up to \$20 million	Up to \$20 million

- The Office of Legislative Services (OLS) notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.
- The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. These changes may result in more generous award amounts and further utilization of the program’s annual caps than otherwise would have occurred absent the bill’s additional incentive awards.

BILL DESCRIPTION

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also provides that when the New Jersey Economic Development Authority receives applications for more tax credits than are available in any given fiscal year, then the authority may approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the succeeding fiscal years. However, a taxpayer may not claim the excess tax credits or tax credit transfer certificates until the first day of the fiscal year from which the credits were made available.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. These changes may result in more generous award amounts and further utilization of the program's annual caps than otherwise would have occurred absent the bill's additional incentive awards.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue 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.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4094

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4094, with committee amendments.

As amended, this bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the film and digital media content production tax credit program, the State awards tax credits to eligible taxpayers equal to: (1) 30 percent of the qualified film production expenses incurred for use within certain parts of Northern New Jersey, or 35 percent of the qualified film production expenses incurred for use within all other parts of the State; and (2) 25 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 20 percent of all other qualified digital media content production expenses purchased within the State.

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also extends the diversity bonus tax credit program’s duration from 2028 to 2034, allows it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers.

Additionally, the bill revises the definition of “New Jersey film-lease partner.” Under current law, the term includes taxpayers who

commit to lease or acquire a New Jersey production facility, with an aggregate square footage of at least 50,000 square feet, for a period of five or more years, and who commit to spending an annual average of \$50 million in qualified film production expenses over a designated period of five to 10 years. The bill revises this definition to allow for a New Jersey film-lease partner to lease or acquire a portion of a New Jersey production facility, provided that the leased or acquired portion has an aggregate square footage of at least 50,000 square feet and otherwise meets the requirements of existing law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) allow an additional \$100 million in tax credits to be annually made available to New Jersey film-lease partners beginning in Fiscal Year 2025, which credits would be distributed from funds otherwise set aside for New Jersey studio partners;

(2) remove a provision allowing the authority to approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the next succeeding fiscal years

(3) change the treatment of excess credit applications in a fiscal year and allowing the authority to reallocate unused credits among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners;

(4) expand the definition of "New Jersey studio partner" to no longer require that a production company commit to a transformative project;

(5) restrict the definition of "qualified film production expenses" for a New Jersey film-lease partner to no longer include amounts in excess of \$500,000 to highly compensated individuals;

(6) extend the diversity bonus tax credit program's duration from 2028 to 2034, allow it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers; and

(7) make technical corrections.

FISCAL IMPACT:

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the

lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 4094 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 22, 2021

SUMMARY

- Synopsis:** Makes changes to film and digital media content production tax credit program.
- Type of Impact:** Potential decrease in State revenue associated with additional credit awards and cap limits.
- Agencies Affected:** New Jersey Economic Development Authority

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
State Revenue Loss	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.
- The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.
- The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

BILL DESCRIPTION

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill changes the treatment of excess credit applications in a fiscal year and allows reallocation among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners. Beginning in FY 2025, the bill also allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners.

The bill also extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill’s additional incentive awards and program extensions.

The bill extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines

certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue 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. 6070

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 15, 2021

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Makes changes to film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning gross income and corporation business tax
2 credits for qualified film and digital media content production
3 expenses and amending P.L.2018, c.56.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
9 read as follows:

10 1. a. (1) A taxpayer, upon approval of an application to the
11 authority and the director, shall be allowed a credit against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
13 an amount equal to 35 percent of the qualified film production
14 expenses of the taxpayer during a privilege period commencing on
15 or after July 1, 2018 but before July 1, 2034, provided that:

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

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

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

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

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

38 (2) Notwithstanding the provisions of paragraph (1) of
39 subsection a. of this section to the contrary, the tax credit allowed
40 pursuant to this subsection against the tax imposed pursuant to
41 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
42 equal to 30 percent of the qualified film production expenses of the
43 taxpayer during a privilege period that are incurred for services
44 performed and tangible personal property purchased for use at a
45 sound stage or other location that is located in the State within a 30-

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.

1 mile radius of the intersection of Eighth Avenue/Central Park West,
2 Broadway, and West 59th Street/Central Park South, New York,
3 New York.

4 b. (1) A taxpayer, upon approval of an application to the
5 authority and the director, shall be allowed a credit against the tax
6 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
7 an amount equal to: **[20]** 30 percent of the qualified digital media
8 content production expenses of the taxpayer during a privilege
9 period commencing on or after July 1, 2018 but before July 1, 2034,
10 provided that:

11 (a) at least \$2,000,000 of the total digital media content
12 production expenses of the taxpayer are incurred for services
13 performed, and goods purchased through vendors authorized to do
14 business, in New Jersey;

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

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

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

24 (2) Notwithstanding the provisions of paragraph (1) of
25 subsection b. of this section to the contrary, the tax credit allowed
26 pursuant to this subsection against the tax imposed pursuant to
27 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
28 equal to **[25]** 35 percent of the qualified digital media content
29 production expenses of the taxpayer during a privilege period that
30 are incurred for services performed and tangible personal property
31 purchased through vendors whose primary place of business is
32 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
33 Gloucester, Mercer, or Salem County.

34 c. No tax credit shall be allowed pursuant to this section for
35 any costs or expenses included in the calculation of any other tax
36 credit or exemption granted pursuant to a claim made on a tax
37 return filed with the director, or included in the calculation of an
38 award of business assistance or incentive, for a period of time that
39 coincides with the privilege period for which a tax credit authorized
40 pursuant to this section is allowed. The order of priority in which
41 the tax credit allowed pursuant to this section and any other tax
42 credits allowed by law may be taken shall be as prescribed by the
43 director. The amount of the tax credit applied under this section
44 against the tax imposed pursuant to section 5 of P.L.1945, c.162
45 (C.54:10A-5), for a privilege period, when taken together with any
46 other payments, credits, deductions, and adjustments allowed by
47 law shall not reduce the tax liability of the taxpayer to an amount
48 less than the statutory minimum provided in subsection (e) of

1 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
2 credit otherwise allowable under this section which cannot be
3 applied for the privilege period due to the limitations of this
4 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
5 1 et seq.) may be carried forward, if necessary, to the seven
6 privilege periods following the privilege period for which the tax
7 credit was allowed.

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

39 e. (1) The value of tax credits, including tax credits allowed
40 through the granting of tax credit transfer certificates, approved by
41 the director and the authority pursuant to subsection a. of this
42 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
43 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners
44 and New Jersey film-lease partners, shall not exceed a cumulative
45 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
46 thereafter prior to fiscal year 2035 to apply against the tax imposed
47 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
48 imposed pursuant to the "New Jersey Gross Income Tax Act,"

1 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
2 the value of tax credits approved by the director for New Jersey
3 film-lease partners and the \$100,000,000 limitation on the value of
4 tax credits approved by the director for other taxpayers imposed by
5 this paragraph, the value of tax credits, including tax credits
6 allowed through the granting of tax credit transfer certificates,
7 approved by the director and the authority pursuant to subsection a.
8 of this section and pursuant to subsection a. of section 2 of
9 P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall
10 not exceed a cumulative total of \$100,000,000 in fiscal year 2021
11 and in each fiscal year thereafter prior to fiscal year 2034 to apply
12 against the tax imposed pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
14 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
15 year 2025, in addition to the \$100,000,000 made available for New
16 Jersey studio partners pursuant to this paragraph, up to an additional
17 \$350,000,000 may be made available annually, in the discretion of
18 the authority, to New Jersey studio partners for the award of tax
19 credits, including tax credits allowed through the granting of tax
20 credit transfer certificates, pursuant to subsection a. of this section
21 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
22 from the funds made available pursuant to subparagraph (i) of
23 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
24 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
25 value of tax credits approved by the director for New Jersey studio
26 partners and the \$100,000,000 limitation on the value of tax credits
27 approved by the director for other taxpayers imposed by this
28 paragraph, the value of tax credits, including tax credits allowed
29 through the granting of tax credit transfer certificates, approved by
30 the director and the authority pursuant to subsection a. of this
31 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
32 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a
33 cumulative total of \$100,000,000 in fiscal year 2021 and in each
34 fiscal year thereafter prior to fiscal year 2034 to apply against the
35 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
36 and the tax imposed pursuant to the "New Jersey Gross Income Tax
37 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio
38 partners and New Jersey film-lease partners shall be subject to
39 award agreements with the authority detailing obligations of the
40 awardee and outcomes relating to events of default, including, but
41 not limited to, recapture, forfeiture, and termination. If in any
42 privilege period, beginning following a date determined by the
43 authority, a New Jersey film-lease partner's annual average of
44 qualified film production expenses falls below \$50,000,000, the
45 authority shall reduce by 20 percent any tax credit award for a film
46 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)
47 has been submitted, until a privilege period when the annual
48 average of qualified film production expenses has been restored to

1 \$50,000,000. The authority shall establish a non-binding,
2 administrative pre-certification process for potentially eligible
3 projects.

4 **【**If the cumulative total amount of tax credits, and tax credit
5 transfer certificates, allowed to taxpayers for privilege periods or
6 taxable years commencing during a single fiscal year under
7 subsection a. of this section and subsection a. of section 2 of
8 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
9 available in that fiscal year, then taxpayers who have first applied
10 for and have not been allowed a tax credit or tax credit transfer
11 certificate amount for that reason shall be allowed, in the order in
12 which they have submitted an application, the amount of tax credit
13 or tax credit transfer certificate on the first day of the next
14 succeeding fiscal year in which tax credits and tax credit transfer
15 certificates under subsection a. of this section and subsection a. of
16 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
17 amount of credits**】** Notwithstanding the limitations set forth in this
18 paragraph, if in any fiscal year the authority receives applications
19 for tax credits under subsection a. of this section and subsection a.
20 of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
21 the total amount of tax credits available for the fiscal year, then the
22 authority may approve applications, in the order in which such
23 applications were submitted, for excess tax credits during the year
24 in which the application was submitted, provided that the amount of
25 excess credits shall be subtracted from the total amounts allowed
26 for the next following fiscal year in which credits are available, and
27 provided further that the taxpayer shall not claim the excess tax
28 credit or tax credit transfer certificate until the first day of the fiscal
29 year from which the credits were made available.

30 Notwithstanding any provision of paragraph (1) of this
31 subsection to the contrary, for any fiscal year in which the amount
32 of tax credits approved pursuant to this paragraph is less than the
33 cumulative total amount of tax credits permitted to be approved in
34 that fiscal year, the authority shall certify the amount of the
35 remaining tax credits available for approval in that fiscal year, and
36 shall increase the cumulative total amount of tax credits permitted
37 to be approved for New Jersey studio partners in the subsequent
38 fiscal year by the certified amount remaining from the prior fiscal
39 year. The authority shall also certify, for each fiscal year, the
40 amount of tax credits that were previously approved, but that the
41 taxpayer is not able to redeem or transfer to another taxpayer under
42 this section, and shall increase the cumulative total amount of tax
43 credits permitted to be approved for New Jersey studio partners in
44 the subsequent fiscal year by the amount of tax credits previously
45 approved, but not subject to redemption or transfer.

46 (2) The value of tax credits, including tax credits allowed
47 through the granting of tax credit transfer certificates, approved by
48 the authority and the director pursuant to subsection b. of this

1 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
2 (C.54A:4-12b) shall not exceed a cumulative total of **【\$10,000,000】**
3 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
4 prior to fiscal year 2035 to apply against the tax imposed pursuant
5 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
6 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq.

8 **【If the total amount of tax credits and tax credit transfer**
9 **certificates allowed to taxpayers for privilege periods or taxable**
10 **years commencing during a single fiscal year under subsection b. of**
11 **this section and subsection b. of section 2 of P.L.2018, c.56**
12 **(C.54A:4-12.b) exceeds the amount of tax credits available in that**
13 **year, then taxpayers who have first applied for and have not been**
14 **allowed a tax credit or tax credit transfer certificate amount for that**
15 **reason shall be allowed, in the order in which they have submitted**
16 **an application, the amount of tax credit or tax credit transfer**
17 **certificate on the first day of the next succeeding fiscal year in**
18 **which tax credits and tax credit transfer certificates under**
19 **subsection b. of this section and subsection b. of section 2 of**
20 **P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of**
21 **credits】** Notwithstanding the limitations set forth in this paragraph,
22 if in any fiscal year the authority receives applications for tax
23 credits under subsection b. of this section and subsection b. of
24 section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
25 the total amount of tax credits available for the fiscal year, then the
26 authority may approve applications, in the order in which such
27 applications were submitted, for excess tax credits during the year
28 in which the application was submitted, provided that the amount of
29 excess credits shall be subtracted from the total amounts allowed
30 for the next following fiscal year in which credits are available, and
31 provided further that the taxpayer shall not claim the excess tax
32 credit or tax credit transfer certificate until the first day of the fiscal
33 year from which the credits were made available.

34 Notwithstanding any provision of this paragraph to the contrary,
35 for any fiscal year in which the amount of tax credits approved
36 pursuant to this paragraph is less than the cumulative total amount
37 of tax credits permitted to be approved in that fiscal year, the
38 authority shall certify the amount of the remaining tax credits
39 available for approval in that fiscal year, and shall increase the
40 cumulative total amount of tax credits permitted to be approved in
41 the subsequent fiscal year by the certified amount remaining from
42 the prior fiscal year. The authority shall also certify, for each fiscal
43 year, the amount of tax credits that were previously approved, but
44 that the taxpayer is not able to redeem or transfer to another
45 taxpayer under this section, and shall increase the cumulative total
46 amount of tax credits permitted to be approved in the subsequent
47 fiscal year by the amount of tax credits previously approved, but not
48 subject to redemption or transfer.

1 f. A taxpayer shall submit to the authority and the director a
2 report prepared by an independent certified public accountant
3 licensed in this State to verify the taxpayer's tax credit claim
4 following the completion of the production. The report shall be
5 prepared by the independent certified public accountant pursuant to
6 agreed upon procedures prescribed by the authority and the director,
7 and shall include such information and documentation as shall be
8 determined to be necessary by the authority and the director to
9 substantiate the qualified film production expenses or the qualified
10 digital media content production expenses of the taxpayer. A single
11 report with attachments deemed necessary by the authority shall be
12 submitted electronically. Upon receipt of the report, the authority
13 and the director shall review the findings of the independent
14 certified public accountant's report, and shall make a determination
15 as to the qualified film production expenses or the qualified digital
16 media content production expenses of the taxpayer. The authority's
17 and the director's review shall include, but shall not be limited to: a
18 review of all non-payroll qualified film production expense items
19 and non-payroll digital media content production expense items
20 over \$20,000; a review of 100 randomly selected non-payroll
21 qualified film production expense items and non-payroll digital
22 media content production expense items that are greater than
23 \$2,500, but less than \$20,000; a review of 100 randomly selected
24 non-payroll qualified film production expense items and non-
25 payroll digital media content production expense items that are less
26 than \$2,500; a review of the qualified wages for the 15 employees,
27 independent contractors, or loan-out companies with the highest
28 qualified wages; and a review of the qualified wages for 35
29 randomly selected employees, independent contractors, or loan-out
30 companies with qualified wages other than the 15 employees,
31 independent contractors, or loan-out companies with the highest
32 qualified wages. The taxpayer's qualified film production expenses
33 and digital media content production expenses shall be adjusted
34 based on any discrepancies identified for the reviewed non-payroll
35 qualified film production expense items, non-payroll digital media
36 content production expense items and qualified wages. The
37 taxpayer's qualified film production expenses and digital media
38 content production expenses also shall be adjusted based on the
39 projection of any discrepancies identified based on the review of
40 randomly selected expense items or wages pursuant to this
41 subsection to the extent that the discrepancies exceed one percent of
42 the total reviewed non-payroll qualified film production expense
43 items, non-payroll digital media content production expense items,
44 or qualified wages. The determination shall be provided in writing
45 to the taxpayer, and a copy of the written determination shall be
46 included in the filing of a return that includes a claim for a tax
47 credit allowed pursuant to this section.

1 g. A taxpayer shall withhold from each payment to a loan out
2 company or to an independent contractor an amount equal to 6.37
3 percent of the payment otherwise due. The amounts withheld shall
4 be deemed to be withholding of liability pursuant to the "New
5 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
6 taxpayer shall be deemed to have the rights, duties, and
7 responsibilities of an employer pursuant to chapter 7 of Title 54A of
8 the New Jersey Statutes. The director shall allocate the amounts
9 withheld for a taxable year to the accounts of the individuals who
10 are employees of a loan out company in proportion to the
11 employee's payment by the loan out company in connection with a
12 trade, profession, or occupation carried on in this State or for the
13 rendition of personal services performed in this State during the
14 taxable year. A loan out company that reports its payments to
15 employees in connection with a trade, profession, or occupation
16 carried on in this State or for the rendition of personal services
17 performed in this State during a taxable year shall be relieved of its
18 duties and responsibilities as an employer pursuant to chapter 7 of
19 Title 54A of the New Jersey Statutes for the taxable year for any
20 payments relating to the payments on which the taxpayer withheld.

21 h. As used in this section:

22 "Authority" means the New Jersey Economic Development
23 Authority.

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

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

29 "Digital media content" means any data or information that is
30 produced in digital form, including data or information created in
31 analog form but reformatted in digital form, text, graphics,
32 photographs, animation, sound, and video content. "Digital media
33 content" shall not mean content offerings generated by the end user
34 (including postings on electronic bulletin boards and chat rooms);
35 content offerings comprised primarily of local news, events,
36 weather, or local market reports; public service content; electronic
37 commerce platforms (such as retail and wholesale websites);
38 websites or content offerings that contain obscene material as
39 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
40 content that are produced or maintained primarily for private,
41 industrial, corporate, or institutional purposes; or digital media
42 content acquired or licensed by the taxpayer for distribution or
43 incorporation into the taxpayer's digital media content.

44 "Film" means a feature film, a television series, or a television
45 show of 22 minutes or more in length, intended for a national
46 audience, or a television series or a television show of 22 minutes
47 or more in length intended for a national or regional audience,
48 including, but not limited to, a game show, award show, or other

1 gala event filmed and produced at a nonprofit arts and cultural
2 venue receiving State funding. "Film" shall not include a
3 production featuring news, current events, weather, and market
4 reports or public programming, talk show, or sports event, a
5 production that solicits funds, a production containing obscene
6 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
7 production primarily for private, industrial, corporate, or
8 institutional purposes, or a reality show, except if the production
9 company of the reality show owns, leases, or otherwise occupies a
10 production facility of no less than 20,000 square feet of real
11 property for a minimum term of 24 months, and invests no less than
12 \$3,000,000 in such a facility within a designated enterprise zone
13 established pursuant to the "New Jersey Urban Enterprise Zones
14 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
15 business district established pursuant to section 3 of P.L.2001,
16 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
17 other gala event that is not filmed and produced at a nonprofit arts
18 and cultural venue receiving State funding.

19 "Full-time or full-time equivalent employee" means an individual
20 employed by the taxpayer for consideration for at least 35 hours a
21 week, or who renders any other standard of service generally
22 accepted by custom or practice as full-time or full-time equivalent
23 employment, whose wages are subject to withholding as provided in
24 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
25 who is a partner of a taxpayer, who works for the partnership for at
26 least 35 hours a week, or who renders any other standard of service
27 generally accepted by custom or practice as full-time or full-time
28 equivalent employment, and whose distributive share of income,
29 gain, loss, or deduction, or whose guaranteed payments, or any
30 combination thereof, is subject to the payment of estimated taxes, as
31 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
32 et seq. "Full-time or full-time equivalent employee" shall not
33 include an individual who works as an independent contractor or on
34 a consulting basis for the taxpayer.

35 "Highly compensated individual" means an individual who
36 directly or indirectly receives compensation in excess of \$500,000
37 for the performance of services used directly in a production. An
38 individual receives compensation indirectly when the taxpayer pays
39 a loan out company that, in turn, pays the individual for the
40 performance of services.

41 "Incurred in New Jersey" means, for any application submitted
42 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
43 pursuant to which a tax credit has not been allowed prior to the
44 effective date of P.L.2021, c.160, service performed within New
45 Jersey and tangible personal property used or consumed in New
46 Jersey. A service is performed in New Jersey to the extent that the
47 individual performing the service is physically located in New
48 Jersey while performing the service. Notwithstanding where the

1 property is delivered or acquired, rented tangible property is used or
2 consumed in New Jersey to the extent that the property is located in
3 New Jersey during its use or consumption and is rented from a
4 vendor authorized to do business in New Jersey or the film
5 production company provides to the authority the vendor's
6 information in a form and manner prescribed by the authority.
7 Purchased tangible property is not used and consumed in New
8 Jersey unless it is purchased from a vendor authorized to do
9 business in New Jersey and is delivered to or acquired within New
10 Jersey; provided, however, that if a production is also located in
11 another jurisdiction, the purchased tangible property is used and
12 consumed in New Jersey if the acquisition and delivery of
13 purchased tangible property is located in either New Jersey or
14 another jurisdiction where the production takes place.

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

19 "Loan out company" means a personal service corporation or
20 other entity that is contracted with by the taxpayer to provide
21 specified individual personnel, such as artists, crew, actors,
22 producers, or directors for the performance of services used directly
23 in a production. "Loan out company" shall not include entities
24 contracted with by the taxpayer to provide goods or ancillary
25 contractor services such as catering, construction, trailers,
26 equipment, or transportation.

27 "New Jersey film-lease partner" means a taxpayer, including any
28 taxpayer that is a member of a combined group under P.L.2018,
29 c.131 (C.54:10A-4.11), that has made a commitment to lease or
30 acquire all or part of a New Jersey production facility **[with]** ,
31 which leased or acquired space shall have an aggregate square
32 footage of at least 50,000 square feet, **[which includes]** including a
33 sound stage and production support space, such as production
34 offices or a backlot, for a period of five or more successive years
35 and commits to spend, on a separate-entity basis or in the aggregate
36 with other members of the taxpayer's combined group, an annual
37 average of \$50,000,000 of qualified film production expenses over
38 the period of at least five but not to exceed 10 years.

39 "New Jersey studio partner" means a film production company
40 that has made a commitment to produce films or commercial
41 audiovisual products in New Jersey and has developed, purchased,
42 or executed a 10-year contract to lease a production facility of
43 250,000 square feet or more as a "transformative project" pursuant
44 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
45 three film production companies may be designated as a New Jersey
46 studio partner.

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

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

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

10 "Qualified digital media content production expenses" means an
11 expense incurred in New Jersey for the production of digital media
12 content. "Qualified digital media content production expenses"
13 shall include but not be limited to: wages and salaries of individuals
14 employed in the production of digital media content on which the
15 tax imposed by the "New Jersey Gross Income Tax Act,"
16 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
17 computer software and hardware, data processing, visualization
18 technologies, sound synchronization, editing, and the rental of
19 facilities and equipment. Payment made to a loan out company or
20 to an independent contractor shall not be deemed a "qualified digital
21 media content production expense" unless the payment is made in
22 connection with a trade, profession, or occupation carried on in this
23 State or for the rendition of personal services performed in this
24 State and the taxpayer has made the withholding required pursuant
25 to subsection g. of this section. "Qualified digital media content
26 production expenses" shall not include expenses incurred in
27 marketing, promotion, or advertising digital media or other costs
28 not directly related to the production of digital media content.
29 Costs related to the acquisition or licensing of digital media content
30 by the taxpayer for distribution or incorporation into the taxpayer's
31 digital media content shall not be deemed "qualified digital media
32 content production expenses."

33 "Qualified film production expenses" means an expense incurred
34 in New Jersey for the production of a film including pre-production
35 costs and post-production costs incurred in New Jersey. "Qualified
36 film production expenses" shall include but not be limited to:
37 wages and salaries of individuals employed in the production of a
38 film on which the tax imposed by the "New Jersey Gross Income
39 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
40 costs for tangible personal property used, and services performed,
41 directly and exclusively in the production of a film, such as
42 expenditures for film production facilities, props, makeup,
43 wardrobe, film processing, camera, sound recording, set
44 construction, lighting, shooting, editing, and meals. Payment made
45 to a loan out company or to an independent contractor shall not be
46 deemed a "qualified film production expense" unless the payment is
47 made in connection with a trade, profession, or occupation carried
48 on in this State or for the rendition of personal services performed

1 in this State and the taxpayer has made the withholding required
2 pursuant to subsection g. of this section. "Qualified film production
3 expenses" shall not include: expenses incurred in marketing or
4 advertising a film; and payment in excess of \$500,000 to a highly
5 compensated individual for costs for a story, script, or scenario used
6 in the production of a film and wages or salaries or other
7 compensation for writers, directors, including music directors,
8 producers, and performers, other than background actors with no
9 scripted lines, except as follows:

10 (1) for a New Jersey studio partner that incurs more than
11 \$15,000,000, but less than \$50,000,000, in qualified film production
12 expenses in the State, an amount, not to exceed \$15,000,000, of the
13 wages or salaries or other compensation for writers, directors,
14 including music directors, producers, and performers, other than
15 background actors with no scripted lines, shall constitute qualified
16 film production expenses;

17 (2) for a New Jersey studio partner that incurs \$50,000,000 or
18 more, but less than \$100,000,000, in qualified film production
19 expenses in the State, an amount, not to exceed \$25,000,000, of the
20 wages or salaries or other compensation for writers, directors,
21 including music directors, producers, and performers, other than
22 background actors with no scripted lines, shall constitute qualified
23 film production expenses;

24 (3) for a New Jersey studio partner that incurs \$100,000,000 or
25 more, but less than \$150,000,000, in qualified film production
26 expenses in the State, an amount, not to exceed \$40,000,000, of the
27 wages or salaries or other compensation for writers, directors,
28 including music directors, producers, and performers, other than
29 background actors with no scripted lines, shall constitute qualified
30 film production expenses; **[and]**

31 (4) for a New Jersey studio partner that incurs \$150,000,000 or
32 more in qualified film production expenses in the State, an amount,
33 not to exceed \$60,000,000, of the wages or salaries or other
34 compensation for writers, directors, including music directors,
35 producers, and performers, other than background actors with no
36 scripted lines, shall constitute qualified film production expenses;
37 and

38 (5) for a New Jersey film-lease partner, an amount, not to
39 exceed \$15,000,000, of the payments in excess of \$500,000 to each
40 highly compensated individual for costs for a story, script, or
41 scenario used in the production of a film and wages or salaries or
42 other compensation for writers, directors, including music directors,
43 producers, and performers, other than background actors with no
44 scripted lines, shall constitute qualified film production expenses.

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

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

4 i. A business that is not a "taxpayer" as defined and used in the
5 "Corporation Business Tax Act (1945)," P.L.1945, c.162
6 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
7 under this section, but is a business entity that is classified as a
8 partnership for federal income tax purposes and is ultimately owned
9 by a business entity that is a "corporation" as defined in subsection
10 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
11 liability company formed under the "Revised Uniform Limited
12 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
13 qualified to do business in this State as a foreign limited liability
14 company, with one member, and is wholly owned by the business
15 entity that is a "corporation" as defined in subsection (c) of section
16 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
17 requirements of this section, shall be considered an eligible
18 applicant and "taxpayer" as that term is used in this section.
19 (cf: P.L.2021, c.160, s.58)

20

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

23 2. a. (1) A taxpayer, upon approval of an application to the
24 authority and the director, shall be allowed a credit against the tax
25 otherwise due for the taxable year under the "New Jersey Gross
26 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35
27 percent of the qualified film production expenses of the taxpayer
28 during a taxable year commencing on or after July 1, 2018 but
29 before July 1, 2034, provided that:

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

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

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

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

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

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

15 b. (1) A taxpayer, upon approval of an application to the
16 authority and the director, shall be allowed a credit against the tax
17 otherwise due for the taxable year under the "New Jersey Gross
18 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:
19 **[20]** 30 percent of the qualified digital media content production
20 expenses of the taxpayer during a taxable year commencing on or
21 after July 1, 2018 but before July 1, 2034, provided that:

22 (a) at least \$2,000,000 of the total digital media content
23 production expenses of the taxpayer are incurred for services
24 performed, and goods purchased through vendors authorized to do
25 business, in New Jersey;

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

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

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

35 (2) Notwithstanding the provisions of paragraph (1) of
36 subsection b. of this section to the contrary, the tax credit allowed
37 pursuant to this subsection against the tax otherwise due for the
38 taxable year under the "New Jersey Gross Income Tax Act,"
39 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[25]** 35
40 percent for the qualified digital media content production expenses
41 of the taxpayer during a taxable year that are incurred for services
42 performed and tangible personal property purchased through
43 vendors whose primary place of business is located in Atlantic,
44 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
45 or Salem County.

46 c. No tax credit shall be allowed pursuant to this section for
47 any costs or expenses included in the calculation of any other tax
48 credit or exemption granted pursuant to a claim made on a tax

1 return filed with the director, or included in the calculation of an
2 award of business assistance or incentive, for a period of time that
3 coincides with the taxable year for which a tax credit authorized
4 pursuant to this section is allowed. The order of priority in which
5 the tax credit allowed pursuant to this section and any other tax
6 credits allowed by law may be taken shall be as prescribed by the
7 director. The amount of the tax credit applied under this section
8 against the tax otherwise due under the "New Jersey Gross Income
9 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
10 together with any other payments, credits, deductions, and
11 adjustments allowed by law shall not reduce the tax liability of the
12 taxpayer to an amount less than zero. The amount of the tax credit
13 otherwise allowable under this section which cannot be applied for
14 the taxable year due to the limitations of this subsection or under
15 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
16 necessary, to the seven taxable years following the taxable year for
17 which the tax credit was allowed.

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

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

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

45 e. A taxpayer, with an application for a tax credit provided for
46 in subsection a. or subsection b. of this section, may apply to the
47 authority and the director for a tax credit transfer certificate in lieu
48 of the taxpayer being allowed any amount of the tax credit against

1 the tax liability of the taxpayer. The tax credit transfer certificate,
2 upon receipt thereof by the taxpayer from the authority and the
3 director, may be sold or assigned, in full or in part, to any other
4 taxpayer that may have a tax liability under the "New Jersey Gross
5 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
6 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
7 exchange for private financial assistance to be provided by the
8 purchaser or assignee to the taxpayer that has applied for and been
9 granted the tax credit. The tax credit transfer certificate provided to
10 the taxpayer shall include a statement waiving the taxpayer's right
11 to claim that amount of the tax credit against the tax imposed
12 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
13 sell or assign. The sale or assignment of any amount of a tax credit
14 transfer certificate allowed under this section shall not be
15 exchanged for consideration received by the taxpayer of less than
16 75 percent of the transferred tax credit amount. Any amount of a
17 tax credit transfer certificate used by a purchaser or assignee against
18 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
19 same limitations and conditions that apply to the use of a tax credit
20 pursuant to subsections c. and d. of this section. Any amount of a
21 tax credit transfer certificate obtained by a purchaser or assignee
22 under subsection e. of this section may be applied against the
23 purchaser's or assignee's tax liability under P.L.1945, c.162
24 (C.54:10A-1 et seq.) and shall be subject to the same limitations
25 and conditions that apply to the use of a credit pursuant to
26 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

27 f. (1) The value of tax credits, including tax credits allowed
28 through the granting of tax credit transfer certificates, approved by
29 the director and the authority pursuant to subsection a. of this
30 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
31 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio
32 partners and New Jersey film-lease partners, shall not exceed a
33 cumulative total of \$100,000,000 in fiscal year 2019 and in each
34 fiscal year thereafter prior to fiscal year 2035 to apply against the
35 tax imposed pursuant to the "New Jersey Gross Income Tax Act,"
36 N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162
37 (C.54:10A-5). In addition to the \$100,000,000 limitation on the
38 value of tax credits approved by the director for New Jersey film-
39 lease partners and the \$100,000,000 limitation on the value of tax
40 credits approved by the director for other taxpayers imposed by this
41 paragraph, the value of tax credits, including tax credits allowed
42 through the granting of tax credit transfer certificates, approved by
43 the director and the authority pursuant to subsection a. of this
44 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
45 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a
46 cumulative total of \$100,000,000 in fiscal year 2021 and in each
47 fiscal year thereafter prior to fiscal year 2034 to apply against the
48 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)

1 and the tax imposed pursuant to the "New Jersey Gross Income Tax
2 Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in
3 addition to the \$100,000,000 made available for New Jersey studio
4 partners pursuant to this paragraph, up to an additional
5 \$350,000,000 may be made available annually, in the discretion of
6 the authority, to New Jersey studio partners for the award of tax
7 credits, including tax credits allowed through the granting of tax
8 credit transfer certificates, pursuant to subsection a. of this section
9 and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b),
10 from the funds made available pursuant to subparagraph (i) of
11 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
12 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
13 value of tax credits approved by the director for New Jersey studio
14 partners and the \$100,000,000 limitation on the value of tax credits
15 approved by the director for other taxpayers imposed by this
16 paragraph, the value of tax credits, including tax credits allowed
17 through the granting of tax credit transfer certificates, approved by
18 the director and the authority pursuant to subsection a. of this
19 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
20 (C.54:10A-5.39b) to New Jersey film-lease partners shall not
21 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
22 in each fiscal year thereafter prior to fiscal year 2034 to apply
23 against the tax imposed pursuant to section 5 of P.L.1945, c.162
24 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
25 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to
26 New Jersey studio partners and New Jersey film-lease partners shall
27 be subject to award agreements with the authority detailing
28 obligations of the awardee and outcomes relating to events of
29 default, including, but not limited to, recapture, forfeiture, and
30 termination. If in any taxable year, beginning following a date
31 determined by the authority, a New Jersey film-lease partner's
32 annual average of qualified film production expenses falls below
33 \$50,000,000, the authority shall reduce by 20 percent any tax credit
34 award for a film for which final documentation pursuant to
35 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year
36 when the annual average of qualified film production expenses has
37 been restored to \$50,000,000. The authority shall establish a non-
38 binding, administrative pre-certification process for potentially
39 eligible projects.

40 **【**If the cumulative total amount of tax credits, and tax credit
41 transfer certificates, allowed to taxpayers for taxable years or
42 privilege periods commencing during a single fiscal year under
43 subsection a. of this section and subsection a. of section 1 of
44 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
45 available in that fiscal year, then taxpayers who have first applied
46 for and have not been allowed a tax credit or tax credit transfer
47 certificate amount for that reason shall be allowed, in the order in
48 which they have submitted an application, the amount of tax credit

1 or tax credit transfer certificate on the first day of the next
2 succeeding fiscal year in which tax credits and tax credit transfer
3 certificates under subsection a. of this section and subsection a. of
4 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
5 the amount of credits **】** Notwithstanding the limitations set forth in
6 this paragraph, if in any fiscal year the authority receives
7 applications for tax credits under subsection a. of this section and
8 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in
9 amounts exceeding the total amount of tax credits available for the
10 fiscal year, then the authority may approve applications, in the order
11 in which such applications were submitted, for excess tax credits
12 during the year in which the application was submitted, provided
13 that the amount of excess credits shall be subtracted from the total
14 amounts allowed for the next following fiscal year in which credits
15 are available, and provided further that the taxpayer shall not claim
16 the excess tax credit or tax credit transfer certificate until the first
17 day of the fiscal year from which the credits were made available.

18 Notwithstanding any provision of paragraph (1) of this
19 subsection to the contrary, for any fiscal year in which the amount
20 of tax credits approved pursuant to this paragraph is less than the
21 cumulative total amount of tax credits permitted to be approved in
22 that fiscal year, the authority shall certify the amount of the
23 remaining tax credits available for approval in that fiscal year, and
24 shall increase the cumulative total amount of tax credits permitted
25 to be approved for New Jersey studio partners in the subsequent
26 fiscal year by the certified amount remaining from the prior fiscal
27 year. The authority shall also certify, for each fiscal year, the
28 amount of tax credits that were previously approved, but that the
29 taxpayer is not able to redeem or transfer to another taxpayer under
30 this section, and shall increase the cumulative total amount of tax
31 credits permitted to be approved for New Jersey studio partners in
32 the subsequent fiscal year by the amount of tax credits previously
33 approved, but not subject to redemption or transfer.

34 (2) The value of tax credits, including tax credits allowed
35 through the granting of tax credit transfer certificates, approved by
36 the authority and the director pursuant to subsection b. of this
37 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
38 (C.54:10A-5.39b) shall not exceed a cumulative total of
39 **【\$10,000,000】** \$30,000,000 in fiscal year 2019 and in each fiscal
40 year thereafter prior to fiscal year 2035 to apply against the tax
41 imposed pursuant to the "New Jersey Gross Income Tax Act,"
42 N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of
43 P.L.1945, c.162 (C.54:10A-5).

44 **【** If the total amount of tax credits and tax credit transfer
45 certificates allowed to taxpayers for taxable years or privilege
46 periods commencing during a single fiscal year under subsection b.
47 of this section and subsection b. of section 1 of P.L.2018, c.56
48 (C.54:10A-5.39b) exceeds the amount of tax credits available in

1 that year, then taxpayers who have first applied for and have not
2 been allowed a tax credit or tax credit transfer certificate amount for
3 that reason shall be allowed, in the order in which they have
4 submitted an application, the amount of tax credit or tax credit
5 transfer certificate on the first day of the next succeeding fiscal year
6 in which tax credits and tax credit transfer certificates under
7 subsection b. of this section and subsection b. of section 1 of
8 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
9 credits] Notwithstanding the limitations set forth in this paragraph,
10 if in any fiscal year the authority receives applications for tax
11 credits under subsection b. of this section and subsection b. of
12 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in amounts exceeding
13 the total amount of tax credits available for the fiscal year, then the
14 authority may approve applications, in the order in which such
15 applications were submitted, for excess tax credits during the year
16 in which the application was submitted, provided that the amount of
17 excess credits shall be subtracted from the total amounts allowed
18 for the next following fiscal year in which credits are available, and
19 provided further that the taxpayer shall not claim the excess tax
20 credit or tax credit transfer certificate until the first day of the fiscal
21 year from which the credits were made available.

22 Notwithstanding any provision of this paragraph to the contrary,
23 for any fiscal year in which the amount of tax credits approved
24 pursuant to this paragraph is less than the cumulative total amount
25 of tax credits permitted to be approved in that fiscal year, the
26 authority shall certify the amount of the remaining tax credits
27 available for approval in that fiscal year, and shall increase the
28 cumulative total amount of tax credits permitted to be approved in
29 the subsequent fiscal year by the certified amount remaining from
30 the prior fiscal year. The authority shall also certify, for each fiscal
31 year, the amount of tax credits that were previously approved, but
32 that the taxpayer is not able to redeem or transfer to another
33 taxpayer under this section, and shall increase the cumulative total
34 amount of tax credits permitted to be approved in the subsequent
35 fiscal year by the amount of tax credits previously approved, but not
36 subject to redemption or transfer.

37 g. A taxpayer shall submit to the authority and the director a
38 report prepared by an independent certified public accountant
39 licensed in this State to verify the taxpayer's tax credit claim
40 following the completion of the production. The report shall be
41 prepared by the independent certified public accountant pursuant to
42 agreed upon procedures prescribed by the authority and the director,
43 and shall include such information and documentation as shall be
44 determined to be necessary by the authority and the director to
45 substantiate the qualified film production expenses or the qualified
46 digital media content production expenses of the taxpayer. A single
47 report with attachments deemed necessary by the authority shall be
48 submitted electronically. Upon receipt of the report, the authority

1 and the director shall review the findings of the independent
2 certified public accountant's report, and shall make a determination
3 as to the qualified film production expenses or the qualified digital
4 media content production expenses of the taxpayer. The authority's
5 and the director's review shall include, but shall not be limited to: a
6 review of all non-payroll qualified film production expense items
7 and non-payroll digital media content production expense items
8 over \$20,000; a review of 100 randomly selected non-payroll
9 qualified film production expense items and non-payroll digital
10 media content production expense items that are greater than
11 \$2,500, but less than \$20,000; a review of 100 randomly selected
12 non-payroll qualified film production expense items and non-
13 payroll digital media content production expense items that are less
14 than \$2,500; a review of the qualified wages for the 15 employees,
15 independent contractors, or loan-out companies with the highest
16 qualified wages; and a review of the qualified wages for 35
17 randomly selected employees, independent contractors, or loan-out
18 companies with qualified wages other than the 15 employees,
19 independent contractors, or loan-out companies with the highest
20 qualified wages. The taxpayer's qualified film production expenses
21 and digital media content production expenses shall be adjusted
22 based on any discrepancies identified for the reviewed non-payroll
23 qualified film production expense items, non-payroll digital media
24 content production expense items and qualified wages. The
25 taxpayer's qualified film production expenses and digital media
26 content production expenses also shall be adjusted based on the
27 projection of any discrepancies identified based on the review of
28 randomly selected expense items or wages pursuant to this
29 subsection to the extent that the discrepancies exceed one percent of
30 the total reviewed non-payroll qualified film production expense
31 items, non-payroll digital media content production expense items,
32 or qualified wages. The determination shall be provided in writing
33 to the taxpayer, and a copy of the written determination shall be
34 included in the filing of a return that includes a claim for a tax
35 credit allowed pursuant to this section.

36 h. A taxpayer shall withhold from each payment to a loan out
37 company or to an independent contractor an amount equal to 6.37
38 percent of the payment otherwise due. The amounts withheld shall
39 be deemed to be withholding of liability pursuant to the "New
40 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
41 taxpayer shall be deemed to have the rights, duties, and
42 responsibilities of an employer pursuant to chapter 7 of Title 54A of
43 the New Jersey Statutes. The director shall allocate the amounts
44 withheld for a taxable year to the accounts of the individuals who
45 are employees of a loan out company in proportion to the
46 employee's payment by the loan out company in connection with a
47 trade, profession, or occupation carried on in this State or for the
48 rendition of personal services performed in this State during the

1 taxable year. A loan out company that reports its payments to
2 employees in connection with a trade, profession, or occupation
3 carried on in this State or for the rendition of personal services
4 performed in this State during a taxable year shall be relieved of its
5 duties and responsibilities as an employer pursuant to chapter 7 of
6 Title 54A of the New Jersey Statutes for the taxable year for any
7 payments relating to the payments on which the taxpayer withheld.

8 i. As used in this section:

9 "Authority" means the New Jersey Economic Development
10 Authority.

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

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

16 "Digital media content" means any data or information that is
17 produced in digital form, including data or information created in
18 analog form but reformatted in digital form, text, graphics,
19 photographs, animation, sound, and video content. "Digital media
20 content" shall not mean content offerings generated by the end user
21 (including postings on electronic bulletin boards and chat rooms);
22 content offerings comprised primarily of local news, events,
23 weather or local market reports; public service content; electronic
24 commerce platforms (such as retail and wholesale websites);
25 websites or content offerings that contain obscene material as
26 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
27 content that are produced or maintained primarily for private,
28 industrial, corporate, or institutional purposes; or digital media
29 content acquired or licensed by the taxpayer for distribution or
30 incorporation into the taxpayer's digital media content.

31 "Film" means a feature film, a television series, or a television
32 show of 22 minutes or more in length, intended for a national
33 audience, or a television series or a television show of 22 minutes
34 or more in length intended for a national or regional audience,
35 including, but not limited to, a game show, award show, or other
36 gala event filmed and produced at a nonprofit arts and cultural
37 venue receiving State funding. "Film" shall not include a
38 production featuring news, current events, weather, and market
39 reports or public programming, talk show, sports event, or reality
40 show, a production that solicits funds, a production containing
41 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
42 3, or a production primarily for private, industrial, corporate, or
43 institutional purposes. "Film" shall not include an award show or
44 other gala event that is not filmed and produced at a nonprofit arts
45 and cultural venue receiving State funding.

46 "Full-time or full-time equivalent employee" means an individual
47 employed by the taxpayer for consideration for at least 35 hours a
48 week, or who renders any other standard of service generally

1 accepted by custom or practice as full-time or full-time equivalent
2 employment, whose wages are subject to withholding as provided in
3 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
4 who is a partner of a taxpayer, who works for the partnership for at
5 least 35 hours a week, or who renders any other standard of service
6 generally accepted by custom or practice as full-time or full-time
7 equivalent employment, and whose distributive share of income,
8 gain, loss, or deduction, or whose guaranteed payments, or any
9 combination thereof, is subject to the payment of estimated taxes, as
10 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq. "Full-time or full-time equivalent employee" shall not
12 include an individual who works as an independent contractor or on
13 a consulting basis for the taxpayer.

14 "Highly compensated individual" means an individual who
15 directly or indirectly receives compensation in excess of \$500,000
16 for the performance of services used directly in a production. An
17 individual receives compensation indirectly when the taxpayer pays
18 a loan out company that, in turn, pays the individual for the
19 performance of services.

20 "Incurred in New Jersey" means, for any application submitted
21 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
22 pursuant to which a tax credit has not been allowed prior to the
23 effective date of P.L.2021, c.160, service performed within New
24 Jersey and tangible personal property used or consumed in New
25 Jersey. A service is performed in New Jersey to the extent that the
26 individual performing the service is physically located in New
27 Jersey while performing the service. Notwithstanding where the
28 property is delivered or acquired, rented tangible property is used or
29 consumed in New Jersey to the extent that the property is located in
30 New Jersey during its use or consumption and is rented from a
31 vendor authorized to do business in New Jersey or the film
32 production company provides to the authority the vendor's
33 information in a form and manner prescribed by the authority.
34 Purchased tangible property is not used and consumed in New
35 Jersey unless it is purchased from a vendor authorized to do
36 business in New Jersey and is delivered to or acquired within New
37 Jersey; provided, however, that if a production is also located in
38 another jurisdiction, the purchased tangible property is used and
39 consumed in New Jersey if the acquisition and delivery of
40 purchased tangible property is located in either New Jersey or
41 another jurisdiction where the production takes place.

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

46 "Loan out company" means a personal service corporation or
47 other entity that is contracted with by the taxpayer to provide
48 specified individual personnel, such as artists, crew, actors,

1 producers, or directors for the performance of services used directly
2 in a production. "Loan out company" shall not include entities
3 contracted with by the taxpayer to provide goods or ancillary
4 contractor services such as catering, construction, trailers,
5 equipment, or transportation.

6 "New Jersey film-lease partner" means a taxpayer, including any
7 taxpayer that is a member of a combined group under P.L.2018,
8 c.131 (C:54:10A-4.11), that has made a commitment to lease or
9 acquire all or part of a New Jersey production facility **[with]** ,
10 which leased or acquired space shall have an aggregate square
11 footage of at least 50,000 square feet, **[which includes]** including a
12 sound stage and production support space, such as production
13 offices or a backlot, for a period of five or more successive years
14 and commits to spend, on a separate-entity basis or in the aggregate
15 with other members of the taxpayer's combined group, an annual
16 average of \$50,000,000 of qualified film production expenses over
17 the period of at least five but not to exceed 10 years.

18 "New Jersey studio partner" means a film production company
19 that has made a commitment to produce films or commercial
20 audiovisual products in New Jersey and has developed, purchased,
21 or executed a 10-year contract to lease a production facility of
22 250,000 square feet or more as a "transformative project" pursuant
23 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
24 three film production companies may be designated as a New Jersey
25 studio partner.

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

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

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

37 "Qualified digital media content production expenses" means an
38 expense incurred in New Jersey for the production of digital media
39 content. "Qualified digital media content production expenses"
40 shall include but not be limited to: wages and salaries of individuals
41 employed in the production of digital media content on which the
42 tax imposed by the "New Jersey Gross Income Tax Act,"
43 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
44 computer software and hardware, data processing, visualization
45 technologies, sound synchronization, editing, and the rental of
46 facilities and equipment. Payment made to a loan out company or
47 to an independent contractor shall not be deemed a "qualified digital
48 media content production expense" unless the payment is made in

1 connection with a trade, profession, or occupation carried on in this
2 State or for the rendition of personal services performed in this
3 State and the taxpayer has made the withholding required pursuant
4 to subsection h. of this section. "Qualified digital media content
5 production expenses" shall not include expenses incurred in
6 marketing, promotion, or advertising digital media or other costs
7 not directly related to the production of digital media content.
8 Costs related to the acquisition or licensing of digital media content
9 by the taxpayer for distribution or incorporation into the taxpayer's
10 digital media content shall not be deemed "qualified digital media
11 content production expenses."

12 "Qualified film production expenses" means an expense incurred
13 in New Jersey for the production of a film including pre-production
14 costs and post-production costs incurred in New Jersey. "Qualified
15 film production expenses" shall include but not be limited to:
16 wages and salaries of individuals employed in the production of a
17 film on which the tax imposed by the "New Jersey Gross Income
18 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
19 costs for tangible personal property used, and services performed,
20 directly and exclusively in the production of a film, such as
21 expenditures for film production facilities, props, makeup,
22 wardrobe, film processing, camera, sound recording, set
23 construction, lighting, shooting, editing, and meals. Payment made
24 to a loan out company or to an independent contractor shall not be
25 deemed a "qualified film production expense" unless the payment is
26 made in connection with a trade, profession, or occupation carried
27 on in this State or for the rendition of personal services performed
28 in this State and the taxpayer has made the withholding required by
29 subsection h. of this section. "Qualified film production expenses"
30 shall not include: expenses incurred in marketing or advertising a
31 film; and payment in excess of \$500,000 to a highly compensated
32 individual for costs for a story, script, or scenario used in the
33 production of a film and wages or salaries or other compensation
34 for writers, directors, including music directors, producers, and
35 performers, other than background actors with no scripted lines,
36 except as follows:

37 (1) for a New Jersey studio partner that incurs more than
38 \$15,000,000, but less than \$50,000,000, in qualified film production
39 expenses in the State, an amount, not to exceed \$15,000,000, of the
40 wages or salaries or other compensation for writers, directors,
41 including music directors, producers, and performers, other than
42 background actors with no scripted lines, shall constitute qualified
43 film production expenses;

44 (2) for a New Jersey studio partner that incurs \$50,000,000 or
45 more, but less than \$100,000,000, in qualified film production
46 expenses in the State, an amount, not to exceed \$25,000,000, of the
47 wages or salaries or other compensation for writers, directors,
48 including music directors, producers, and performers, other than

1 background actors with no scripted lines, shall constitute qualified
2 film production expenses;

3 (3) for a New Jersey studio partner that incurs \$100,000,000 or
4 more, but less than \$150,000,000, in qualified film production
5 expenses in the State, an amount, not to exceed \$40,000,000, of the
6 wages or salaries or other compensation for writers, directors,
7 including music directors, producers, and performers, other than
8 background actors with no scripted lines, shall constitute qualified
9 film production expenses; **[and]**

10 (4) for a New Jersey studio partner that incurs \$150,000,000 or
11 more in qualified film production expenses in the State, an amount,
12 not to exceed \$60,000,000, of the wages or salaries or other
13 compensation for writers, directors, including music directors,
14 producers, and performers, other than background actors with no
15 scripted lines, shall constitute qualified film production expenses;
16 and

17 (5) for a New Jersey film-lease partner, an amount, not to
18 exceed \$15,000,000, of the payments in excess of \$500,000 to each
19 highly compensated individual for costs for a story, script, or
20 scenario used in the production of a film and wages or salaries or
21 other compensation for writers, directors, including music directors,
22 producers, and performers, other than background actors with no
23 scripted lines, shall constitute qualified film production expenses.

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

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

30 (cf: P.L.2021, c.160, s.59)

31

32 3. This act shall take effect immediately.

33

34

35 STATEMENT

36

37 This bill makes various changes to the film and digital media
38 content production tax credit program, including increasing the
39 amount of the digital media content production tax credit, allowing
40 certain compensation to be included within the computation of
41 qualified film production expenses, and revising the definition of
42 "New Jersey film-lease partner."

43 Under the film and digital media content production tax credit
44 program, the State awards tax credits to eligible taxpayers equal to:
45 (1) 30 percent of the qualified film production expenses incurred for
46 use within certain parts of Northern New Jersey, or 35 percent of
47 the qualified film production expenses incurred for use within all

1 other parts of the State; and (2) 25 percent of the qualified digital
2 media content production expenses purchased through vendors
3 located in certain counties in Southern New Jersey, or 20 percent of
4 all other qualified digital media content production expenses
5 purchased within the State.

6 Under the bill, the amount of the digital media content
7 production portion of the tax credit program would be increased.
8 Specifically, the bill increases the digital media content production
9 tax credit to 35 percent of the qualified digital media content
10 production expenses purchased through vendors located in certain
11 counties in Southern New Jersey, or 30 percent of all other qualified
12 digital media content production expenses purchased within the
13 State. In addition, the bill increases the cumulative annual
14 limitation on digital media content production tax credits from \$10
15 million to \$30 million.

16 The bill also modifies the definition of “qualified film
17 production expenses” to include amounts paid by New Jersey film-
18 lease partners for certain employees. Except for certain allowances
19 for New Jersey studio partners, current law generally prohibits
20 qualified film production expenses from including any payments in
21 excess of \$500,000 for: (1) a highly compensated individual for
22 costs for a story, script, or scenario used in the production of a film;
23 and (2) the wages or salaries or other compensation for writers,
24 directors, including music directors, producers, and performers,
25 other than background actors with no scripted lines. However, this
26 bill would instead allow a New Jersey film-lease partner to include
27 up to \$15 million of these payments, in excess of current
28 allowances, in the computation of qualified film production
29 expenses.

30 The bill also provides that when the New Jersey Economic
31 Development Authority receives applications for more tax credits
32 than are available in any given fiscal year, then the authority may
33 approve applications for excess tax credits during the year in which
34 such applications were submitted, provided that the amount of
35 excess credits would be subtracted from the amounts otherwise
36 available in the next succeeding fiscal years. However, a taxpayer
37 may not claim the excess tax credits or tax credit transfer
38 certificates until the first day of the fiscal year from which the
39 credits were made available.

40 Additionally, the bill revises the definition of “New Jersey film-
41 lease partner.” Under current law, the term includes taxpayers who
42 commit to lease or acquire a New Jersey production facility, with an
43 aggregate square footage of at least 50,000 square feet, for a period
44 of five or more years, and who commit to spending an annual
45 average of \$50 million in qualified film production expenses over a
46 designated period of five to 10 years. The bill revises this
47 definition to allow for a New Jersey film-lease partner to lease or
48 acquire a portion of a New Jersey production facility, provided that

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- 1 the leased or acquired portion has an aggregate square footage of at
- 2 least 50,000 square feet and otherwise meets the requirements of
- 3 existing law.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 6070

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2021

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 6070.

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the film and digital media content production tax credit program, the State awards tax credits to eligible taxpayers equal to: (1) 30 percent of the qualified film production expenses incurred for use within certain parts of Northern New Jersey, or 35 percent of the qualified film production expenses incurred for use within all other parts of the State; and (2) 25 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 20 percent of all other qualified digital media content production expenses purchased within the State.

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also modifies the definition of “qualified film production expenses” to include amounts paid by New Jersey film-lease partners for certain employees. Except for certain allowances for New Jersey studio partners, current law generally prohibits qualified film production expenses from including any payments in excess of \$500,000 for: (1) a highly compensated individual for costs for a story, script, or scenario used in the production of a film; and (2) the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background

actors with no scripted lines. However, this bill would instead allow a New Jersey film-lease partner to include up to \$15 million of these payments, in excess of current allowances, in the computation of qualified film production expenses.

The bill also provides that when the New Jersey Economic Development Authority receives applications for more tax credits than are available in any given fiscal year, then the authority may approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the next succeeding fiscal years. However, a taxpayer may not claim the excess tax credits or tax credit transfer certificates until the first day of the fiscal year from which the credits were made available.

Additionally, the bill revises the definition of “New Jersey film-lease partner.” Under current law, the term includes taxpayers who commit to lease or acquire a New Jersey production facility, with an aggregate square footage of at least 50,000 square feet, for a period of five or more years, and who commit to spending an annual average of \$50 million in qualified film production expenses over a designated period of five to 10 years. The bill revises this definition to allow for a New Jersey film-lease partner to lease or acquire a portion of a New Jersey production facility, provided that the leased or acquired portion has an aggregate square footage of at least 50,000 square feet and otherwise meets the requirements of existing law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 6070

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 6070, with committee amendments.

As amended, this bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the film and digital media content production tax credit program, the State awards tax credits to eligible taxpayers equal to: (1) 30 percent of the qualified film production expenses incurred for use within certain parts of Northern New Jersey, or 35 percent of the qualified film production expenses incurred for use within all other parts of the State; and (2) 25 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 20 percent of all other qualified digital media content production expenses purchased within the State.

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also extends the diversity bonus tax credit program’s duration from 2028 to 2034, allows it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers.

Additionally, the bill revises the definition of “New Jersey film-lease partner.” Under current law, the term includes taxpayers who

commit to lease or acquire a New Jersey production facility, with an aggregate square footage of at least 50,000 square feet, for a period of five or more years, and who commit to spending an annual average of \$50 million in qualified film production expenses over a designated period of five to 10 years. The bill revises this definition to allow for a New Jersey film-lease partner to lease or acquire a portion of a New Jersey production facility, provided that the leased or acquired portion has an aggregate square footage of at least 50,000 square feet and otherwise meets the requirements of existing law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- beginning in 2025, allow an additional \$100,000,000 in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners;
- remove a provision allowing the authority to approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the next succeeding fiscal years
- change the treatment of excess credit applications in a fiscal year and allowing reallocation among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners;
- expand the definition of "New Jersey studio partner" to no longer require that a production company commit to a transformative project;
- restrict the definition of "qualified film production expenses" for a film-lease partner to no longer include amounts in excess of \$500,000 to highly compensated individuals;
- extend the diversity bonus tax credit program's duration from 2028 to 2034, allow it to apply against gross income tax, and allow a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers; and
- make technical corrections.

FISCAL IMPACT:

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a

tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 6070

with Assembly Floor Amendments
(Proposed by Assemblyman MUKHERJI)

ADOPTED: DECEMBER 20, 2021

This floor amendment clarifies certain residency requirements for credited and uncredited performers as part of a taxpayer's diversity plan. The diversity plan allows for a taxpayer to receive an enhanced credit award based on four percent of the qualified film or digital media content production expenses of the taxpayer.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 6070
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 14, 2021

SUMMARY

Synopsis: Makes changes to film and digital media content production tax credit program.

Type of Impact: Potential decrease in State revenue associated with enhanced credit awards and cap limits.

Agencies Affected: New Jersey Economic Development Authority

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
State Revenue Loss	Up to \$20 million	Up to \$20 million	Up to \$20 million

- The Office of Legislative Services (OLS) notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.
- The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. These changes may result in more generous award amounts and further utilization of the program’s annual caps than otherwise would have occurred absent the bill’s additional incentive awards.

BILL DESCRIPTION

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill also provides that when the New Jersey Economic Development Authority receives applications for more tax credits than are available in any given fiscal year, then the authority may approve applications for excess tax credits during the year in which such applications were submitted, provided that the amount of excess credits would be subtracted from the amounts otherwise available in the succeeding fiscal years. However, a taxpayer may not claim the excess tax credits or tax credit transfer certificates until the first day of the fiscal year from which the credits were made available.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. These changes may result in more generous award amounts and further utilization of the program's annual caps than otherwise would have occurred absent the bill's additional incentive awards.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue 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.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 6070

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 17, 2021

SUMMARY

- Synopsis:** Makes changes to film and digital media content production tax credit program.
- Type of Impact:** Potential decrease in State revenue associated with additional credit awards and cap limits.
- Agencies Affected:** New Jersey Economic Development Authority

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
State Revenue Loss	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.
- The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.
- The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

BILL DESCRIPTION

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill changes the treatment of excess credit applications in a fiscal year and allows reallocation among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners. Beginning in FY 2025, the bill also allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners.

The bill also extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines goals that include hiring performers who are members of ethnic minority groups that are underrepresented in film or digital media productions, residents the municipality where filming occurs, and members of a labor union representing film and television performers.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill’s additional incentive awards and program extensions.

The bill extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines

certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue 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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 6070

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JANUARY 10, 2022

SUMMARY

- Synopsis:** Makes changes to film and digital media content production tax credit program.
- Type of Impact:** Potential decrease in State revenue associated with additional credit awards and cap limits.
- Agencies Affected:** New Jersey Economic Development Authority

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
State Revenue Loss	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.
- The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill's additional incentive awards and program extensions.
- The bill extends the diversity bonus tax credit program's duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

BILL DESCRIPTION

This bill makes various changes to the film and digital media content production tax credit program, including increasing the amount of the digital media content production tax credit, allowing certain compensation to be included within the computation of qualified film production expenses, and revising the definition of “New Jersey film-lease partner.”

Under the bill, the amount of the digital media content production portion of the tax credit program would be increased. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in certain counties in Southern New Jersey, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million.

The bill changes the treatment of excess credit applications in a fiscal year and allows reallocation among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners. Beginning in FY 2025, the bill also allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners.

The bill also extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that increasing the cumulative annual tax credit award limit on digital media content production tax credits from \$10 million to \$30 million could reduce revenues by as much as \$20 million annually. This revenue loss would occur throughout the lifetime of the film and digital media content production tax credit program, which is slated to conclude at the end of FY 2034.

The bill also increases the percentage of qualified digital media content production expenses that may be claimed by a taxpayer for a tax credit award and allows for up to \$15 million in payments made to certain highly compensated individuals to be claimed as qualified film production expenses. Beginning in FY 2025, the bill allows an additional \$100 million in tax credits for New Jersey film-lease partners from funds otherwise set aside for New Jersey studio partners. These changes may result in more generous award amounts and further utilization of annual tax credit program caps than otherwise would have occurred absent the bill’s additional incentive awards and program extensions.

The bill extends the diversity bonus tax credit program’s duration from FY 2028 to FY 2034, allows it to apply against gross income tax, and allows a bonus credit if the diversity plan outlines certain goals. These credits are not subject to the annual caps applicable to other credits, so the awarding of bonus credits may increase the revenue loss by as much as two percent of qualified production expenses.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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Governor Murphy Signs Legislation Bolstering The New Jersey Film & Digital Media Tax Credit Program

01/12/2022

TRENTON – Governor Phil Murphy today signed legislation (S-4094/A-6070) which bolsters the New Jersey Film & Digital Media Tax Credit Program through expanded digital media production tax credits and other improvements. The program, which was first signed into law by Governor Murphy in July 2018, and first expanded in January 2020, has made New Jersey a national film and television production center and continues to attract high-profile projects to New Jersey such as *West Side Story*, *The Equalizer*, and *The Many Saints of Newark*.

“This legislation will ensure that our state remains a top destination for some of our country’s most significant film and TV productions,” **said Governor Murphy**. “The New Jersey Film & Digital Media Tax Credit Program has brought numerous productions to our state, creating jobs for New Jerseyans, and bringing in money that is being spent with local businesses. We look forward to attracting even more productions to our state with the expanded tax credits and improvements that this legislation provides.”

“New Jersey offers significant advantages to productions seeking a vast and diverse on and off camera talent pool and an array of authentic sites for all sorts of productions,” **said New Jersey Economic Development Authority Chief Executive Officer Tim Sullivan**. “Governor Murphy and the Legislature clearly recognize the opportunity the growth of the film and digital media sector represents for the state and their action today to expand the Film and Digital Media Tax Credit will help New Jersey continue to compete for high-profile productions and the influx of economic activity they bring.”

“The latest legislation further enhances a program that has been extremely effective in attracting motion picture and television production, and production infrastructure,” **said Executive Director of the NJ Motion Picture and TV Commission Steven Gorelick**. “Based on the numerous amount of inquiries we are now receiving, it appears that 2022 will another very successful year for New Jersey’s film and television industry.”

Primary sponsors of this legislation include Senators Paul Sarlo and Gordon Johnson, and Assemblymembers William Spearman, Raj Mukherji, Paul Moriarty. Former Senate Majority Leader Loretta Weinberg was also a primary sponsor of this legislation.

“Due to ever-evolving technologies, the film and television industry is one of the fastest-changing industries in the world. This expansion of the media content tax credit will allow us to keep up with all these trends, and keep New Jersey competitive with other states involved in sound, editing and production activities,” **said former Senate Majority Leader Loretta Weinberg**. “These production companies and other media businesses provide good jobs for skilled labor, a market that has long been a backbone of New Jersey’s economy.

“New Jersey is strategically located between New York and Philadelphia, which makes us a convenient location for film and digital media, but convenience is nothing if it doesn’t also make financial sense to attract the business activity,” **said Senator Paul Sarlo**. “By increasing the credits of these programs and enhancing the financial incentive to support the film industry and digital media in our state we can solidify New Jersey as a go-to destination for these projects. We want to capitalize on the direct and indirect economic benefits of an expanding industry.”

“Digital media projects are just as important to the entertainment industry and economy as film projects, and deserve the same opportunities to grow and thrive in our state,” **said Senator Gordon Johnson, who sponsored this legislation as a member of the Assembly**. “This law will give New Jersey an even more competitive edge by further establishing our state as an appealing destination for creative projects of all kinds.”

“As our state continues to recover from the challenges of the COVID-19 pandemic, we must make it a priority to attract more businesses to New Jersey on behalf of our residents,” **said Assemblyman William Spearman**. “Expanding this critical program to bring in additional film and digital media projects will create new jobs, yield more revenue for local businesses, and ultimately invigorate our economy.”

“Film and digital media productions are going to serve as an important component of our state’s economy in the coming years, as our tax credit program incentivizes the industry’s growth in New Jersey,” **said Assemblyman Raj Mukherji**. “Countless residents with the talent and skill to work on these creative productions will now have more opportunities to do so.”

“This law builds on a valuable program that helps generate jobs and promote business throughout our state,” **said Assemblyman Paul Moriarty**. “I look forward to the further expansion of this industry in New Jersey and the benefits our residents will see as a result of these changes.”

Under the legislation, the amount of the digital media content production portion of the tax credit program would be increased while maintaining the overall cap on tax credits established in the Economic Recovery Act of 2020. Specifically, the bill increases the digital media content production tax credit to 35 percent of the qualified digital media content production expenses purchased through vendors located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem Counties, or 30 percent of all other qualified digital media content production expenses purchased within the State. In addition, the bill increases the cumulative annual limitation on digital media content production tax credits from \$10 million to \$30 million. The bill changes the treatment of excess credit applications in a fiscal year and allows reallocation among the categories of New Jersey studio partners, New Jersey film-lease partners, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners. Beginning in FY 2025, the bill also allows an additional \$100 million in tax credits for New Jersey film-lease partners from tax credits authorized under other incentive programs.