

ASSEMBLY, No. 4448

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Assemblywoman MARGIE DONLON, M.D.

District 11 (Monmouth)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

SYNOPSIS

Revises film and digital media content production tax credit program to include eligibility for compensation not subject to gross income tax due to reciprocity agreement with another state.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2024)

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

3

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

6

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

9 1. a. (1) A taxpayer, upon approval of an application to the
10 authority and the director, shall be allowed a credit against the tax
11 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
12 an amount equal to, in the case of a taxpayer designated as a New
13 Jersey studio partner or New Jersey film-lease production company,
14 40 percent, and in the case of a taxpayer other than a New Jersey
15 studio partner or New Jersey film-lease production company, 35
16 percent, of the qualified film production expenses of the taxpayer
17 during a privilege period commencing on or after July 1, 2018 but
18 before July 1, 2039, provided that:

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

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

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

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

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

41 (2) Notwithstanding the provisions of paragraph (1) of
42 subsection a. of this section to the contrary, the tax credit allowed
43 pursuant to this subsection against the tax imposed pursuant to
44 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
45 equal to, in the case of a taxpayer designated as a New Jersey studio
46 partner or New Jersey film-lease production company, 35 percent,
47 and in the case of a taxpayer other than a New Jersey studio partner

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

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

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

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

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

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

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

38 c. No tax credit shall be allowed pursuant to this section for
39 any costs or expenses included in the calculation of any other tax
40 credit or exemption granted pursuant to a claim made on a tax
41 return filed with the director, or included in the calculation of an
42 award of business assistance or incentive, for a period of time that
43 coincides with the privilege period for which a tax credit authorized
44 pursuant to this section is allowed. The order of priority in which
45 the tax credit allowed pursuant to this section and any other tax
46 credits allowed by law may be taken shall be as prescribed by the
47 director. The amount of the tax credit applied under this section
48 against the tax imposed pursuant to section 5 of P.L.1945, c.162

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

12 d. 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 "Corporation
20 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 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 section 5 of P.L.1945, c.162 (C.54:10A-5) that the
28 taxpayer has elected to sell or assign. The sale or assignment of any
29 amount of a tax credit transfer certificate allowed under this section
30 shall not be exchanged for consideration received by the taxpayer of
31 less than 75 percent of the transferred tax credit amount. Any
32 amount of a tax credit transfer certificate used by a purchaser or
33 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
34 et seq.) shall be subject to the same limitations and conditions that
35 apply to the use of a tax credit pursuant to subsection c. of this
36 section. Any amount of a tax credit transfer certificate obtained by
37 a purchaser or assignee under subsection a. or subsection b. of this
38 section may be applied against the purchaser's or assignee's tax
39 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
40 same limitations and conditions that apply to the use of a credit
41 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
42 (C.54A:4-12b).

43 e. (1) The value of tax credits, including tax credits allowed
44 through the granting of tax credit transfer certificates, approved by
45 the director and the authority pursuant to subsection a. of this
46 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
47 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners
48 and New Jersey film-lease production companies, 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 2040, to apply against the
3 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
4 and the tax imposed pursuant to the "New Jersey Gross Income Tax
5 Act," N.J.S.54A:1-1 et seq. In addition to the limitation on the
6 value of tax credits approved by the director for New Jersey film-
7 lease production companies and the limitation on the value of tax
8 credits approved by the director for other taxpayers imposed by this
9 paragraph, and except as provided in section 98 of P.L.2020, c.156
10 (C.34:1B-362), the value of tax credits, including tax credits
11 allowed through the granting of tax credit transfer certificates,
12 approved by the director and the authority pursuant to subsection a.
13 of this section and pursuant to subsection a. of section 2 of
14 P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall
15 not exceed a cumulative total of \$100,000,000 in fiscal year 2021
16 and in each fiscal year thereafter prior to fiscal year 2024, and shall
17 not exceed a cumulative total of \$150,000,000 in fiscal year 2024
18 and in each fiscal year thereafter prior to fiscal year 2040, to apply
19 against the tax imposed pursuant to section 5 of P.L.1945, c.162
20 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
21 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
22 year 2023, in addition to the cumulative total tax credits made
23 available for New Jersey studio partners pursuant to this paragraph
24 and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362),
25 up to an additional \$400,000,000 may be made available annually,
26 in the discretion of the authority, to New Jersey studio partners for
27 the award of tax credits, including tax credits allowed through the
28 granting of tax credit transfer certificates, pursuant to subsection a.
29 of this section and subsection a. of section 2 of P.L.2018, c.56
30 (C.54A:4-12b), from the funds made available pursuant to
31 subparagraph (i) of paragraph (1) of subsection b. of section 98 of
32 P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the
33 value of tax credits approved by the director for New Jersey studio
34 partners and the limitation on the value of tax credits approved by
35 the director for other taxpayers imposed by this paragraph, and
36 except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362),
37 the value of tax credits, including tax credits allowed through the
38 granting of tax credit transfer certificates, approved by the director
39 and the authority pursuant to subsection a. of this section and
40 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
41 12b) to New Jersey film-lease production companies shall not
42 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
43 in each fiscal year thereafter prior to fiscal year 2024, and shall not
44 exceed a cumulative total of \$150,000,000 in fiscal year 2024 and
45 in each fiscal year thereafter prior to fiscal year 2040, to apply
46 against the tax imposed pursuant to section 5 of P.L.1945, c.162
47 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
48 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal

1 year 2023, in addition to the cumulative total tax credits made
2 available for New Jersey film-lease production companies pursuant
3 to this paragraph and subsection d. of section 98 of P.L.2020, c.156
4 (C.34:1B-362), up to an additional \$250,000,000 may be made
5 available annually, in the discretion of the authority, to New Jersey
6 film-lease production companies for the award of tax credits,
7 including tax credits allowed through the granting of tax credit
8 transfer certificates, pursuant to subsection a. of this section and
9 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the
10 funds made available pursuant to subparagraph (i) of paragraph (1)
11 of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362).
12 Approvals made to New Jersey studio partners and New Jersey
13 film-lease production companies shall be subject to award
14 agreements with the authority detailing obligations of the awardee
15 and outcomes relating to events of default, including, but not
16 limited to, recapture, forfeiture, and termination. Notwithstanding
17 any provision of this subsection or other law to the contrary, if a
18 film production company designated as a New Jersey studio partner
19 ceases to qualify for its designation as a New Jersey film studio
20 partner and becomes designated as a New Jersey film-lease partner
21 facility, the authority shall reduce the cumulative total amount of
22 tax credits, including tax credits allowed through the granting of tax
23 credit transfer certificates, made available to New Jersey studio
24 partners in each fiscal year and shall increase the cumulative total
25 amount of tax credits permitted to be approved for New Jersey film-
26 lease production companies in each fiscal year by a corresponding
27 amount pursuant to a formula established in rules adopted by the
28 authority which shall consider the volume of applications submitted
29 by New Jersey studio partners and New Jersey film-lease
30 production facilities, the cumulative total amount of tax credits
31 allowed to New Jersey studio partners and New Jersey film-lease
32 production facilities in the prior fiscal year, the total square footage
33 of facility space occupied in the State by New Jersey studio partners
34 and New Jersey film-lease production facilities, and any other
35 factors that the authority deems appropriate. Award agreements
36 between the authority and New Jersey studio partners shall include
37 a requirement for each New Jersey studio partner to occupy the
38 production facility developed, purchased, or leased as a condition of
39 designation as a New Jersey studio partner for the duration of the
40 commitment period. If a New Jersey studio partner fails to occupy
41 the production facility developed, purchased, or leased as a
42 condition of designation as a New Jersey studio partner for the
43 duration of the commitment period or otherwise fails to satisfy the
44 conditions for designation as a New Jersey studio partner, the
45 authority shall recapture the portion of the tax credit that was only
46 available to the taxpayer by virtue of the taxpayer's designation as a
47 New Jersey studio partner, and all films for which an initial
48 approval has been given, but for which the authority has not

1 approved final documentation, shall terminate. The authority shall
2 establish a non-binding, administrative pre-certification process for
3 potentially eligible 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 have their applications
12 approved by the authority, provided the application otherwise
13 satisfies the requirements of this section, and shall be allowed the
14 amount of tax credit or tax credit transfer certificate on the first day
15 of the next succeeding fiscal year in which tax credits and tax credit
16 transfer certificates under subsection a. of this section and
17 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not
18 in excess of the amount of credits available.

19 Notwithstanding any provision of this paragraph to the contrary,
20 for any fiscal year in which the amount of tax credits approved to
21 New Jersey studio partners, New Jersey film-lease production
22 companies, or taxpayers other than New Jersey studio partners and
23 New Jersey film-lease production companies pursuant to this
24 paragraph is less than the cumulative total amount of tax credits
25 permitted to be approved to each such category, in that fiscal year,
26 the authority shall certify the amount of the remaining tax credits
27 available for approval to each such category in that fiscal year, and
28 shall increase the cumulative total amount of tax credits permitted
29 to be approved for New Jersey studio partners, New Jersey film-
30 lease production companies, or taxpayers other than New Jersey
31 studio partners and New Jersey film-lease production companies in
32 the subsequent fiscal year by the certified amount remaining for
33 each such category from the prior fiscal year. The authority shall
34 also 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, New Jersey film-lease production
39 companies, or taxpayers other than New Jersey studio partners and
40 New Jersey film-lease production companies in the subsequent
41 fiscal year by the amount of tax credits previously approved for
42 each such category, but not subject to redemption or transfer.

43 (2) The value of tax credits, including tax credits allowed
44 through the granting of tax credit transfer certificates, approved by
45 the authority and the director pursuant to subsection b. of this
46 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
47 (C.54A:4-12b) shall not exceed a cumulative total of \$30,000,000 in

1 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
2 2040 to apply against the tax imposed pursuant to section 5 of
3 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
4 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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

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

34 f. A taxpayer shall submit to the authority and the director a
35 report prepared by an independent certified public accountant
36 licensed in this State to verify the taxpayer's tax credit claim
37 following the completion of the production. A New Jersey studio
38 partner that makes deferred compensation payments based on work
39 or services provided on a production may file a supplemental report
40 prepared by an independent certified public accountant, pursuant to
41 agreed-upon procedures prescribed by the authority and the
42 director, no later than two years after the date on which the
43 production concludes. The deferred compensation payments shall
44 constitute qualified film production expenses as if the expenses
45 were incurred at the time of production, provided there are credits
46 available and subject to the authority's review. The report shall be
47 prepared by the independent certified public accountant pursuant to
48 agreed-upon procedures prescribed by the authority and the

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

42 g. A taxpayer shall withhold from each payment to a loan out
43 company, to an independent contractor, or to a homeowner for the
44 use of a personal residence an amount equal to 6.37 percent of the
45 payment otherwise due. The amounts withheld shall be deemed to
46 be withholding of liability pursuant to the "New Jersey Gross
47 Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be
48 deemed to have the rights, duties, and responsibilities of an

1 employer pursuant to chapter 7 of Title 54A of the New Jersey
2 Statutes. The director shall allocate the amounts withheld for a
3 taxable year to the accounts of the individuals who are employees
4 of a loan out company in proportion to the employee's payment by
5 the loan out company in connection with a trade, profession, or
6 occupation carried on in this State or for the rendition of personal
7 services performed in this State during the taxable year. A loan out
8 company that reports its payments to employees in connection with
9 a trade, profession, or occupation carried on in this State or for the
10 rendition of personal services performed in this State during a
11 taxable year shall be relieved of its duties and responsibilities as an
12 employer pursuant to chapter 7 of Title 54A of the New Jersey
13 Statutes for the taxable year for any payments relating to the
14 payments on which the taxpayer withheld. Notwithstanding any
15 provision of this section to the contrary, qualified film production
16 expenses and qualified digital media content production expenses
17 shall include any payments made by the taxpayer to a loan out
18 company for services performed in New Jersey by individuals who
19 are employees of the loan out company and whose wages and
20 salaries are not subject to tax under the "New Jersey Gross Income
21 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
22 reciprocity agreement with another state.

23 h. As used in this section:

24 "Authority" means the New Jersey Economic Development
25 Authority.

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

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

31 "Commitment period" means, for New Jersey studio partners, the
32 period beginning with the commencement of the eligibility period
33 and expiring 10 years following:

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

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

41 "Digital media content" means any data or information that is
42 produced in digital form, including data or information created in
43 analog form but reformatted in digital form, text, graphics,
44 photographs, animation, sound, and video content. "Digital media
45 content" shall not mean content offerings generated by the end user
46 (including postings on electronic bulletin boards and chat rooms);
47 content offerings comprised primarily of local news, events,
48 weather, or local market reports; public service content; electronic

1 commerce platforms (such as retail and wholesale websites);
2 websites or content offerings that contain obscene material as
3 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
4 content that are produced or maintained primarily for private,
5 industrial, corporate, or institutional purposes; or digital media
6 content acquired or licensed by the taxpayer for distribution or
7 incorporation into the taxpayer's digital media content.

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

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

47 "Full-time or full-time equivalent employee" means an individual
48 employed by the taxpayer for consideration for at least 35 hours a

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

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

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

1 Jersey notwithstanding the fact that such homeowner is not a vendor
2 authorized to do business in New Jersey, provided the taxpayer has
3 made the withholding required by subsection g. of this section.

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

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

16 "New Jersey film-lease partner facility" means:

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

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

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

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

39 (3) Except for a production facility, or portion thereof, owned,
40 built, leased, or operated by a film production company designated
41 as a New Jersey studio partner by the authority on or before the
42 181st day next following the effective date of P.L.2023, c.97
43 (C.34:1B-4.2 et al.), in order for a production facility to be
44 designated as a New Jersey film-lease partner facility, the owner or
45 developer shall accept the acquisition by the authority, at the
46 authority's discretion, of equity in the production facility, on
47 commercially reasonable and customary terms and conditions
48 determined by the authority and the New Jersey film-lease partner

1 facility. A film production facility may receive its film-lease
2 partner facility designation prior to executing an equity agreement
3 with the authority provided final approval of such agreement occurs
4 on or before the date on which production commences at the
5 facility.

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

11 "New Jersey film-lease production company" means a taxpayer,
12 including any taxpayer that is a member of a combined group under
13 section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in
14 which the film-lease production company has a material ownership
15 interest and material operational role in the production, that
16 otherwise complies with the eligibility requirements of the Film and
17 Digital Media Tax Credit Program and has made a commitment to
18 lease or otherwise occupy production space in a New Jersey film-
19 lease partner facility and who will shoot at least 50 percent of the
20 total principal photography shoot days of the project within New
21 Jersey and who will shoot at least 50 percent of the total principal
22 photography shoot days within New Jersey at the New Jersey film-
23 lease partner facility. A "New Jersey film-lease production
24 company" may include any other member of a taxpayer's combined
25 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
26 entity principally engaged in the production of a film or other
27 commercial audiovisual product with whom a designated New
28 Jersey film-lease production company contracts to perform film
29 production services on its behalf such that the designated New
30 Jersey film-lease production company controls such film or product
31 during preproduction, production, and postproduction and all results
32 and proceeds of such services constitute, from the moment of
33 creation, "works made for hire" for the New Jersey film-lease
34 production company pursuant to the provisions of the federal
35 "Copyright Act of 1976" (17 U.S.C. s.101 et seq.).

36 "New Jersey studio partner" means a film production company
37 that has made a commitment to produce films or commercial
38 audiovisual products in New Jersey and has developed, purchased,
39 or executed a 10-year contract to lease a production facility of
40 250,000 square feet or more, or has executed a purchase contract
41 with a governmental authority for the purpose of developing a
42 production facility of 250,000 square feet or more within 48 months
43 from the date of designation as a New Jersey studio partner;
44 provided, however, the board, in its discretion, may extend the time
45 to execute a purchase contract for an additional 12 months.
46 Effective upon designation as a New Jersey studio partner, a film
47 production company shall be eligible for a credit pursuant to this
48 section, provided the film production company otherwise complies

1 with the eligibility requirements of Film and Digital Media Tax
2 Credit Program. In the event the authority determines that a film
3 production company has failed to meet the qualifications of a New
4 Jersey studio partner or otherwise comply with the provisions of
5 this section, the authority may rescind the New Jersey studio
6 partner designation and may recapture from that film production
7 company the portion of any tax credit that had been awarded to that
8 film production company that was only available to the film
9 production company by virtue of the film production company's
10 designation as a New Jersey studio partner. A "New Jersey studio
11 partner" may include any other member of a taxpayer's combined
12 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
13 entity principally engaged in the production of a film or other
14 commercial audiovisual product with whom a designated New
15 Jersey studio partner contracts to perform film production services
16 on its behalf such that the designated New Jersey studio partner
17 controls such film or product during pre-production, production,
18 and post-production, and all results and proceeds of such services
19 constitute, from the moment of creation, "works made for hire" for
20 the New Jersey studio partner pursuant to the provisions of the
21 federal "Copyright Act of 1976," (17 U.S.C. s.101 et seq.). No
22 more than three film production companies may be designated as a
23 New Jersey studio partner.

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

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

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

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

1 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: the
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 any
21 wages and salaries of individuals employed in the production of a
22 film that are not subject to tax under the "New Jersey Gross Income
23 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
24 reciprocity agreement with another state; and the costs for tangible
25 personal property used, and services performed, directly and
26 exclusively in the production of a film, such as expenditures for
27 film production facilities, props, makeup, wardrobe, film
28 processing, camera, sound recording, set construction, lighting,
29 shooting, editing, and meals. Payment made to a loan out company
30 or to an independent contractor shall not be deemed a "qualified
31 film production expense" unless the payment is made in connection
32 with a trade, profession, or occupation carried on in this State or for
33 the rendition of personal services performed in this State and the
34 taxpayer has made the withholding required pursuant to subsection
35 g. of this section. Payment made to a homeowner, who is otherwise
36 not a vendor authorized to do business in New Jersey, for the use of
37 a personal residence for filming shall not be deemed a "qualified
38 film production expense" unless the taxpayer has made the
39 withholding required by subsection g. of this section. For the
40 purposes of this definition, wages and salaries of individuals
41 employed in the production of a film shall include deferred
42 compensation, including advances on deferred compensation,
43 incurred by New Jersey studio partners, provided the New Jersey
44 studio partner files a supplemental report prepared by an
45 independent certified public accountant, pursuant to agreed-upon
46 procedures prescribed by the authority and the director, no later
47 than two years after the date on which the production concludes.
48 "Qualified film production expenses" shall not include: expenses

1 incurred in marketing or advertising a film; and payment in excess
2 of \$500,000 to a highly compensated individual for costs for a
3 story, script, or scenario used in the production of a film and wages
4 or salaries or other compensation for writers, directors, including
5 music directors, producers, and performers, other than background
6 actors with no scripted lines, except as follows:

7 (1) for a New Jersey studio partner that incurs less than
8 \$50,000,000 in qualified film production expenses in the State, in
9 excess of amounts paid to highly compensated individuals, an
10 additional amount, not to exceed \$18,000,000, of the wages or
11 salaries or other compensation for writers, directors, including
12 music directors, producers, and performers, other than background
13 actors with no scripted lines, shall constitute qualified film
14 production expenses; and

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

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

17 (4) for a New Jersey studio partner that incurs \$50,000,000 or
18 more in qualified film production expenses in the State, in excess of
19 amounts paid to highly compensated individuals, an additional
20 amount, not to exceed \$72,000,000, 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 expenses;
24 and

25 (5) for a New Jersey film-lease production company that incurs
26 less than \$50,000,000 in qualified film production expenses in the
27 State, in excess of amounts paid to highly compensated individuals,
28 an additional amount, not to exceed \$15,000,000, of the wages or
29 salaries or other compensation for writers, directors, including
30 music directors, producers, and performers, other than background
31 actors with no scripted lines, shall constitute qualified film
32 production expenses; and

33 (6) for a New Jersey film-lease production company that incurs
34 \$50,000,000 or more in qualified film production expenses in the
35 State, in excess of amounts paid to highly compensated individuals,
36 an additional amount, not to exceed \$60,000,000, of the wages or
37 salaries or other compensation for writers, directors, including
38 music directors, producers, and performers, other than background
39 actors with no scripted lines, shall constitute qualified film
40 production expenses.

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

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

47 i. A business that is not a "taxpayer" as defined and used in the

1 "Corporation Business Tax Act (1945)," P.L.1945, c.162
2 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
3 under this section, but is a business entity that is classified as a
4 partnership for federal income tax purposes and is ultimately owned
5 by a business entity that is a "corporation" as defined in subsection
6 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
7 liability company formed under the "Revised Uniform Limited
8 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
9 qualified to do business in this State as a foreign limited liability
10 company, with one member, and is wholly owned by the business
11 entity that is a "corporation" as defined in subsection (c) of section
12 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
13 requirements of this section, shall be considered an eligible
14 applicant and "taxpayer" as that term is used in this section.
15 (cf: P.L.2023, c.97, s.5)

16
17 2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
18 read as follows:

19 2. a. (1) A taxpayer, upon approval of an application to the
20 authority and the director, shall be allowed a credit against the tax
21 otherwise due for the taxable year under the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in
23 the case of a taxpayer designated as a New Jersey studio partner or
24 New Jersey film-lease production company, 40 percent, and in the
25 case of a taxpayer other than a New Jersey studio partner or New
26 Jersey film-lease production company, 35 percent, of the qualified
27 film production expenses of the taxpayer during a taxable year
28 commencing on or after July 1, 2018 but before July 1, 2039,
29 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, in the case of
9 a taxpayer designated as a New Jersey studio partner or New Jersey
10 film-lease production company, 35 percent, and in the case of a
11 taxpayer other than a New Jersey studio partner or New Jersey film-
12 lease production company, 30 percent, of the qualified film
13 production expenses of the taxpayer during a taxable year that are
14 incurred for services performed and tangible personal property
15 purchased for use at a sound stage or other location that is located
16 in the State within a 30-mile radius of the intersection of Eighth
17 Avenue/Central Park West, Broadway, and West 59th Street/Central
18 Park South, New York, New York.

19 b. (1) A taxpayer, upon approval of an application to the
20 authority and the director, shall be allowed a credit against the tax
21 otherwise due for the taxable year under the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30
23 percent of the qualified digital media content production expenses
24 of the taxpayer during a taxable year commencing on or after July
25 1, 2018 but before July 1, 2039, provided that:

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

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

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

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

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

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

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

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

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

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

1 income taxpayers pursuant to the other requirements of this
2 subsection.

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

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

1 allowed through the granting of tax credit transfer certificates,
2 approved by the director and the authority pursuant to subsection a.
3 of this section and pursuant to subsection a. of section 1 of
4 P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners
5 shall not exceed a cumulative total of \$100,000,000 in fiscal year
6 2021 and in each fiscal year thereafter prior to fiscal year 2024, and
7 shall not exceed a cumulative total of \$150,000,000 in fiscal year
8 2024 and in each fiscal year thereafter prior to fiscal year 2040, to
9 apply against the tax imposed pursuant to section 5 of P.L.1945,
10 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New
11 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in
12 fiscal year 2023, in addition to the cumulative total tax credits made
13 available for New Jersey studio partners pursuant to this paragraph
14 and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362),
15 up to an additional \$400,000,000 may be made available annually,
16 in the discretion of the authority, to New Jersey studio partners for
17 the 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). In addition to the limitation on the
23 value of tax credits approved by the director for New Jersey studio
24 partners and the limitation on the value of tax credits approved by
25 the director for other taxpayers imposed by this paragraph, and
26 except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362),
27 the value of tax credits, including tax credits allowed through the
28 granting of tax credit transfer certificates, approved by the director
29 and the authority pursuant to subsection a. of this section and
30 pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-
31 5.39b) to New Jersey film-lease production companies shall not
32 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
33 in each fiscal year thereafter prior to fiscal year 2024, and shall not
34 exceed a cumulative total of \$150,000,000 in fiscal year 2024 and
35 in each fiscal year thereafter prior to fiscal year 2040, to apply
36 against the tax imposed pursuant to section 5 of P.L.1945, c.162
37 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
38 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
39 year 2023, in addition to the cumulative total tax credits made
40 available for New Jersey film-lease production companies pursuant
41 to this paragraph and subsection d. of section 98 of P.L.2020, c.156
42 (C.34:1B-362), up to an additional \$250,000,000 may be made
43 available annually, in the discretion of the authority, to New Jersey
44 film-lease production companies for the award of tax credits,
45 including tax credits allowed through the granting of tax credit
46 transfer certificates, pursuant to subsection a. of this section and
47 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from
48 the funds made available pursuant to subparagraph (i) of paragraph

1 (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362).
2 Approvals made to New Jersey studio partners and New Jersey
3 film-lease production companies shall be subject to award
4 agreements with the authority detailing obligations of the awardee
5 and outcomes relating to events of default, including, but not
6 limited to, recapture, forfeiture, and termination. Notwithstanding
7 any provision of this subsection or other law to the contrary, if a
8 film production company designated as a New Jersey studio partner
9 ceases to qualify for its designation as a New Jersey film studio
10 partner and becomes designated as a New Jersey film-lease partner
11 facility, the authority shall reduce the cumulative total amount of
12 tax credits, including tax credits allowed through the granting of tax
13 credit transfer certificates, made available to New Jersey studio
14 partners in each fiscal year and shall increase the cumulative total
15 amount of tax credits permitted to be approved for New Jersey film-
16 lease production companies in each fiscal year by a corresponding
17 amount pursuant to a formula established in rules adopted by the
18 authority which shall consider the volume of applications submitted
19 by New Jersey studio partners and New Jersey film-lease
20 production facilities, the cumulative total amount of tax credits
21 allowed to New Jersey studio partners and New Jersey film-lease
22 production facilities in the prior fiscal year, the total square footage
23 of facility space occupied in the State by New Jersey studio partners
24 and New Jersey film-lease production facilities, and any other
25 factors that the authority deems appropriate. Award agreements
26 between the authority and New Jersey studio partners shall include
27 a requirement for each New Jersey studio partner to occupy the
28 production facility developed, purchased, or leased as a condition of
29 designation as a New Jersey studio partner for the duration of the
30 commitment period. If a New Jersey studio partner fails to occupy
31 the production facility developed, purchased, or leased as a
32 condition of designation as a New Jersey studio partner for the
33 duration of the commitment period or otherwise fails to satisfy the
34 conditions for designation as a New Jersey studio partner, the
35 authority shall recapture the portion of the tax credit that was only
36 available to the taxpayer by virtue of the taxpayer's designation as a
37 New Jersey studio partner, and all films for which an initial
38 approval has been given, but for which the authority has not
39 approved final documentation, shall terminate. The authority shall
40 establish a non-binding, administrative pre-certification process for
41 potentially eligible projects.

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

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

9 Notwithstanding any provision of this paragraph to the contrary,
10 for any fiscal year in which the amount of tax credits approved to
11 New Jersey studio partners, New Jersey film-lease production
12 companies, or taxpayers other than New Jersey studio partners and
13 New Jersey film-lease production companies pursuant to this
14 paragraph is less than the cumulative total amount of tax credits
15 permitted to be approved to each such category in that fiscal year,
16 the authority shall certify the amount of the remaining tax credits
17 available for approval to each such category in that fiscal year, and
18 shall increase the cumulative total amount of tax credits permitted
19 to be approved for New Jersey studio partners, New Jersey film-
20 lease production companies, or taxpayers other than New Jersey
21 studio partners and New Jersey film-lease production companies in
22 the subsequent fiscal year by the certified amount remaining from
23 the prior fiscal year. The authority shall also certify, for each fiscal
24 year, the amount of tax credits that were previously approved, but
25 that the taxpayer is not able to redeem or transfer to another
26 taxpayer under this section, and shall increase the cumulative total
27 amount of tax credits permitted to be approved for New Jersey
28 studio partners, New Jersey film-lease production companies, or
29 taxpayers other than New Jersey studio partners and New Jersey
30 film-lease production companies in the subsequent fiscal year by
31 the amount of tax credits previously approved for each such
32 category, but not subject to redemption or transfer.

33 (2) The value of tax credits, including tax credits allowed
34 through the granting of tax credit transfer certificates, approved by
35 the authority and the director pursuant to subsection b. of this
36 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
37 (C.54:10A-5.39b) shall not exceed a cumulative total of
38 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
39 prior to fiscal year 2040 to apply against the tax imposed pursuant
40 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
41 and the tax imposed pursuant to section 5 of P.L.1945, c.162
42 (C.54:10A-5).

43 If the total amount of tax credits and tax credit transfer
44 certificates allowed to taxpayers for taxable years or privilege
45 periods commencing during a single fiscal year under subsection b.
46 of this section and subsection b. of section 1 of P.L.2018, c.56
47 (C.54:10A-5.39b) exceeds the amount of tax credits available in
48 that year, then taxpayers who have first applied for and have not

1 been allowed a tax credit or tax credit transfer certificate amount for
2 that reason shall be allowed, in the order in which they have
3 submitted an application, the amount of tax credit or tax credit
4 transfer certificate on the first day of the next succeeding fiscal year
5 in which tax credits and tax credit transfer certificates under
6 subsection b. of this section and subsection b. of section 1 of
7 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
8 credits available.

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

24 g. A taxpayer shall submit to the authority and the director a
25 report prepared by an independent certified public accountant
26 licensed in this State to verify the taxpayer's tax credit claim
27 following the completion of the production. A New Jersey studio
28 partner that makes deferred compensation payments based on work
29 or services provided on a production may file a supplemental report
30 prepared by an independent certified public accountant, pursuant to
31 agreed-upon procedures prescribed by the authority and the
32 director, no later than two years after the date on which the
33 production concludes. The deferred compensation payments shall
34 constitute qualified film production expenses as if the expenses
35 were incurred at the time of production, provided there are credits
36 available and subject to the authority's review. The report shall be
37 prepared by the independent certified public accountant pursuant to
38 agreed-upon procedures prescribed by the authority and the
39 director, and shall include such information and documentation as
40 shall be determined to be necessary by the authority and the director
41 to substantiate the qualified film production expenses or the
42 qualified digital media content production expenses of the taxpayer.
43 A single report with attachments deemed necessary by the authority
44 shall be submitted electronically. Upon receipt of the report, the
45 authority and the director shall review the findings of the
46 independent certified public accountant's report, and shall make a
47 determination as to the qualified film production expenses or the
48 qualified digital media content production expenses of the taxpayer.

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

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

1 taxable year shall be relieved of its duties and responsibilities as an
2 employer pursuant to chapter 7 of Title 54A of the New Jersey
3 Statutes for the taxable year for any payments relating to the
4 payments on which the taxpayer withheld. Notwithstanding any
5 provision of this section to the contrary, qualified film production
6 expenses and qualified digital media content production expenses
7 shall include any payments made by the taxpayer to a loan out
8 company for services performed in New Jersey by individuals who
9 are employees of the loan out company and whose wages and
10 salaries are not subject to tax under the "New Jersey Gross Income
11 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
12 reciprocity agreement with another state.

13 i. As used in this section:

14 "Authority" means the New Jersey Economic Development
15 Authority.

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

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

21 "Commitment period" means, for New Jersey studio partners, the
22 period beginning with the commencement of the eligibility period
23 and expiring 10 years following:

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

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

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

46 "Eligibility period" means, with respect to New Jersey studio
47 partners, the period in which a New Jersey studio partner may claim
48 a tax credit for qualified film production expenses, including

1 expenses that would not constitute qualified film production
2 expenses but for the taxpayer's designation as a New Jersey studio
3 partner, beginning the earlier of the commencement of the principal
4 photography for the New Jersey studio partner's initial film in New
5 Jersey or, in the case of a taxpayer developing or purchasing a
6 production facility, at the issuance of a temporary certificate of
7 occupancy for the production facility developed or purchased as a
8 condition of designation as a New Jersey studio partner and, in the
9 case of a taxpayer leasing a production facility, at the
10 commencement of the lease term for the production facility leased
11 as a condition of designation as a New Jersey studio partner, and
12 extending thereafter for a term of not more than 10 years.

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

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

1 "Highly compensated individual" means an individual who
2 directly or indirectly receives compensation in excess of \$500,000
3 for the performance of services used directly in a production. An
4 individual receives compensation indirectly when the taxpayer pays
5 a loan out company that, in turn, pays the individual for the
6 performance of services.

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

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

38 "Loan out company" means a personal service corporation or
39 other entity that is contracted with by the taxpayer to provide
40 specified individual personnel, such as artists, crew, actors,
41 producers, or directors for the performance of services used directly
42 in a production. "Loan out company" shall not include entities
43 contracted with by the taxpayer to provide goods or ancillary
44 contractor services such as catering, construction, trailers,
45 equipment, or transportation.

46 "New Jersey film-lease partner facility" means:

47 (1) (a) a production facility in New Jersey whose owner or
48 developer has made the commitment to build, lease, or operate a

1 production facility of 250,000 square feet or more, including a
2 sound stage and production support space, such as production
3 offices, mill space, or a backlot, for a period of five or more
4 successive years, as evidenced by site plan approval or an executed
5 redevelopment agreement with a governmental entity for the
6 purpose of developing a production facility of 250,000 square feet
7 or more;

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

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

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

21 (3) Except for a production facility, or portion thereof, owned,
22 built, leased, or operated by a film production company designated
23 as a New Jersey studio partner by the authority on or before the
24 181st day next following the effective date of P.L.2023, c.97
25 (C.34:1B-4.2 et al.), in order for a production facility to be
26 designated as a New Jersey film-lease partner facility, the owner or
27 developer shall accept the acquisition by the authority, at the
28 authority's discretion, of equity in the production facility, on
29 commercially reasonable and customary terms and conditions
30 determined by the authority and the New Jersey film-lease partner
31 facility. A film production facility may receive its film-lease
32 partner facility designation prior to executing an equity agreement
33 with the authority provided final approval of such agreement occurs
34 on or before the date on which production commences at the
35 facility.

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

41 "New Jersey film-lease production company" means a taxpayer,
42 including any taxpayer that is a member of a combined group under
43 section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in
44 which the film-lease production company has a material ownership
45 interest and material operational role in the production, that
46 otherwise complies with the eligibility requirements of the Film and
47 Digital Media Tax Credit Program and has made a commitment to
48 lease or otherwise occupy production space in a New Jersey film-

1 lease partner facility and who will shoot at least 50 percent of the
2 total principal photography shoot days of the project within New
3 Jersey and who will shoot at least 50 percent of the total principal
4 photography shoot days within New Jersey at the New Jersey film-
5 lease partner facility. A "New Jersey film-lease production
6 company" may include any other member of a taxpayer's combined
7 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
8 entity principally engaged in the production of a film or other
9 commercial audiovisual product with whom a designated New
10 Jersey film-lease production company contracts to perform film
11 production services on its behalf such that the designated New
12 Jersey film-lease production company controls such film or product
13 during preproduction, production, and postproduction and all results
14 and proceeds of such services constitute, from the moment of
15 creation, "works made for hire" for the New Jersey film-lease
16 production company pursuant to the provisions of the federal
17 "Copyright Act of 1976" (17 U.S.C. s.101 et seq.).

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, or has executed a purchase contract
23 with a governmental authority for the purpose of developing a
24 production facility of 250,000 square feet or more within 48 months
25 from the date of designation as a New Jersey studio partner;
26 provided, however, the board, in its discretion, may extend the time
27 to execute a purchase contract for an additional 12 months.
28 Effective upon designation as a New Jersey studio partner, a film
29 production company shall be eligible for a credit pursuant to this
30 section, provided the film production company otherwise complies
31 with the eligibility requirements of Film and Digital Media Tax
32 Credit Program. In the event the authority determines that a film
33 production company has failed to meet the qualifications of a New
34 Jersey studio partner or otherwise comply with the provisions of
35 this section, the authority may rescind the New Jersey studio
36 partner designation and may recapture from that film production
37 company the portion of any tax credit that had been awarded to that
38 film production company that was only available to the film
39 production company by virtue of the film production company's
40 designation as a New Jersey studio partner. A "New Jersey studio
41 partner" may include any other member of a taxpayer's combined
42 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
43 entity principally engaged in the production of a film or other
44 commercial audiovisual product with whom a designated New
45 Jersey studio partner contracts to perform film production services
46 on its behalf such that the designated New Jersey studio partner
47 controls such film or product during pre-production, production,
48 and post-production, and all results and proceeds of such services

1 constitute, from the moment of creation, "works made for hire" for
2 the New Jersey studio partner pursuant to the provisions of the
3 federal "Copyright Act of 1976," (17 U.S.C. s.101 et seq.). No
4 more than three film production companies may be designated as a
5 New Jersey studio partner.

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

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

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

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

44 "Qualified film production expenses" means an expense incurred
45 in New Jersey for the production of a film including pre-production
46 costs and post-production costs incurred in New Jersey. "Qualified
47 film production expenses" shall include but not be limited to: the
48 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 any
3 wages and salaries of individuals employed in the production of a
4 film that are not subject to tax under the "New Jersey Gross Income
5 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
6 reciprocity agreement with another state; and the costs for tangible
7 personal property used, and services performed, directly and
8 exclusively in the production of a film, such as expenditures for
9 film production facilities, props, makeup, wardrobe, film
10 processing, camera, sound recording, set construction, lighting,
11 shooting, editing, and meals. Payment made to a loan out company
12 or to an independent contractor shall not be deemed a "qualified
13 film production expense" unless the payment is made in connection
14 with a trade, profession, or occupation carried on in this State or for
15 the rendition of personal services performed in this State and the
16 taxpayer has made the withholding required by subsection h. of this
17 section. Payment made to a homeowner, who is otherwise not a
18 vendor authorized to do business in New Jersey, for the use of a
19 personal residence for filming shall not be deemed a "qualified film
20 production expense" unless the taxpayer has made the withholding
21 required by subsection h. of this section. For the purposes of this
22 definition, wages and salaries of individuals employed in the
23 production of a film shall include deferred compensation, including
24 advances on deferred compensation, incurred by New Jersey studio
25 partners, provided the New Jersey studio partner files a
26 supplemental report prepared by an independent certified public
27 accountant, pursuant to agreed-upon procedures prescribed by the
28 authority and the director, no later than two years after the date on
29 which the production concludes. "Qualified film production
30 expenses" shall not include: expenses incurred in marketing or
31 advertising a film; and payment in excess of \$500,000 to a highly
32 compensated individual for costs for a story, script, or scenario used
33 in the production of a film and 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, except as follows:

37 (1) for a New Jersey studio partner that incurs less than
38 \$50,000,000 in qualified film production expenses in the State, in
39 excess of amounts paid to highly compensated individuals, an
40 additional amount, not to exceed \$18,000,000, of the wages or
41 salaries or other compensation for writers, directors, including
42 music directors, producers, and performers, other than background
43 actors with no scripted lines, shall constitute qualified film
44 production expenses;

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

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

47 (4) for a New Jersey studio partner that incurs \$50,000,000 or
48 more in qualified film production expenses in the State, in excess of

1 amounts paid to highly compensated individuals, an additional
2 amount, not to exceed \$72,000,000, of the wages or salaries or other
3 compensation for writers, directors, including music directors,
4 producers, and performers, other than background actors with no
5 scripted lines, shall constitute qualified film production expenses;

6 (5) for a New Jersey film-lease production company that incurs
7 less than \$50,000,000 in qualified film production expenses in the
8 State, in excess of amounts paid to highly compensated individuals,
9 an additional amount, not to exceed \$15,000,000, of the wages or
10 salaries or other compensation for writers, directors, including
11 music directors, producers, and performers, other than background
12 actors with no scripted lines, shall constitute qualified film
13 production expenses; and

14 (6) for a New Jersey film-lease production company that incurs
15 \$50,000,000 or more in qualified film production expenses in the
16 State, in excess of amounts paid to highly compensated individuals,
17 an additional amount, not to exceed \$60,000,000, of the wages or
18 salaries or other compensation for writers, directors, including
19 music directors, producers, and performers, other than background
20 actors with no scripted lines, shall constitute qualified film
21 production expenses.

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

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

28 (cf: P.L.2023, c.97, s.6)

29

30 3. This act shall take effect immediately and shall apply
31 retroactively beginning on January 1, 2024 to any taxpayer who has
32 not received a tax credit certificate or tax credit transfer certificate
33 from the New Jersey Economic Development Authority before this
34 date; provided, however, a taxpayer that has received a tax credit
35 certificate and has not used such tax credit certificate before
36 January 1, 2024 shall be allowed to surrender the tax credit
37 certificate to the authority and be issued a new tax credit certificate
38 under the provisions of this act.

39

40

41

STATEMENT

42

43 This bill revises certain provisions of the film and digital media
44 content production tax credit program to include eligibility for
45 wages and salaries paid to persons who are not subject to tax under
46 the "New Jersey Gross Income Tax Act" due to a tax reciprocity
47 agreement with another state.

1 Under the film and digital media content production tax credit
2 program, the New Jersey Economic Development Authority awards
3 corporation business tax and gross income tax credits to eligible
4 taxpayers based on the qualified film production expenses or
5 qualified digital media content production expenses incurred for use
6 within certain parts of the State. In addition to certain other
7 eligibility requirements, at least 50 percent of the qualified digital
8 media content production expenses incurred by a taxpayer are
9 required to be for wages and salaries paid to full-time or full-time
10 equivalent employees in New Jersey in order to qualify for the
11 digital media content production tax credit.

12 Under current law, the terms “qualified film production
13 expenses” and “qualified digital media content production
14 expenses” are defined to include, among other expenses, the wages
15 and salaries paid to individuals who are employed for the purposes
16 of the production and who are subject to the tax imposed by the
17 “New Jersey Gross Income Tax Act.” Current law also defines the
18 term “full-time or full-time equivalent employee” to include
19 persons working not less than 35 hours per week, or other standard
20 of service accepted by custom or practice as full-time or full-time
21 equivalent employment, and whose wages and salaries are subject
22 to withholding as provided in the “New Jersey Gross Income Tax
23 Act.”

24 This bill expands the scope of qualified film production expenses
25 and qualified digital media content production expenses to include
26 wages and salaries that are paid to individuals who are employed
27 for the purposes of the production and who are not subject to tax
28 under the “New Jersey Gross Income Tax Act” due to the
29 provisions of a tax reciprocity agreement with another state. The
30 bill also provides that these expenses would include any payments
31 made by the taxpayer to a loan out company for services performed
32 in New Jersey by individuals who are employed by the loan out
33 company and whose wages and salaries are not subject to tax under
34 the “New Jersey Gross Income Tax Act” due to the provisions of a
35 tax reciprocity agreement with another state.

36 Additionally, the bill amends the definition “full-time or full-
37 time equivalent employee” to include otherwise eligible persons
38 whose wages and salaries are not subject to tax under the “New
39 Jersey Gross Income Tax Act” due to the provisions of a tax
40 reciprocity agreement with another state.

41 Currently, the State has entered into a reciprocal income tax
42 agreement with the Commonwealth of Pennsylvania. Under the
43 terms of this agreement, compensation paid to Pennsylvania
44 residents who are employed in New Jersey is not subject to tax
45 under the “New Jersey Gross Income Tax Act.” Accordingly, the
46 bill provides that wages and salaries paid to certain Pennsylvania
47 residents may be included as qualified film production expenses and
48 qualified digital media content production expenses, provided that

1 these persons are employed in the New Jersey for the purposes of
2 the film or digital media content production.

3 The provisions of this bill would take effect immediately and
4 apply retroactively beginning on January 1, 2024 to any taxpayer
5 who has not received a tax credit certificate or tax credit transfer
6 certificate from the New Jersey Economic Development Authority
7 before this date. However, any taxpayer that has previously
8 received a tax credit certificate, but has not used such tax credit
9 certificate before January 1, 2024, would be allowed to surrender
10 the tax credit certificate to the authority and receive a new tax credit
11 certificate in accordance with the provisions of this bill.