

CHAPTER 81

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"New Jersey film-lease partner facility" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"New Jersey film-lease partner facility" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);
- (3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);
- (4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);
- (5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);
- (6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);
- (7) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);
- (8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);
- (10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);
- (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);
- (12) section 2 of P.L.2018, c.56 (C.54A:4-12b);
- (13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and
- (14) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved June 30, 2025.