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SENATE COMMITTEE SUBSTITUTE FOR

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STATE OF NEW JERSEY

216th LEGISLATURE

 ADOPTED MAY 19, 2014

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Co-Sponsored by:

Senators Stack, Gill and Gordon

SYNOPSIS

“Garden State Film and Digital Media Jobs Act”; expands existing film and digital media production tax credit programs.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on November 9, 2015, with amendments.



**An Act** expanding the existing film and digital media production tax credit programs, and amending P.L.1977, c.44 and P.L.2005, c.345.

**Be It Enacted** *by the Senate and General Assembly of the State of New Jersey:*

**1[**1. Section 6 of P.L.1977, c.44 (C.34:1B-27) is amended to read as follows:

6. The Motion Picture and Television Development Commission shall have the following powers:

a. To adopt such rules and regulations as **[**it**]** the commission deems advisable with respect to the conduct of its own affairs.

b. To hold hearings, and to do or perform any acts which may be necessary, desirable, or proper to carry out the purposes of **[**this act**]** P.L.1977, c.44 (C.34:1B-22 et seq.).

c. To request and obtain from any department, division, board, bureau, commission, or other agency of the State or of any county, municipality, authority, or other political subdivision within the State such assistance and data as will enable **[**it**]** the commission to properly to carry out its powers and duties hereunder.

d. To accept any federal funds granted, by act of Congress or by Executive Order, for all or any of the purposes of **[**this act**]** P.L.1977, c.44 (C.34:1B-22 et seq.).

e. To accept any gifts, donations, bequests, or grants of funds from private and public agencies for all or any of the purposes of **[**this act**]** P.L.1977, c.44 (C.34:1B-22 et seq.).

f. To coordinate the activities of similar councils or boards appointed by any city or county within the State for all or any of the purposes of **[**this act**]** P.L.1977, c.44 (C.34:1B-22 et seq.).

g. To create advisory councils necessary for the performance of responsibilities pursuant to **[**this act**]** P.L.1977, c.44 (C.34:1B-22 et seq.) and to appoint members thereto.

h. To directly secure any and all location permits from any department, division, board, bureau, commission, or other agency of the State or from any county, municipality, authority, or other political subdivision within the State for applicants interested in motion picture and television production within the State.

i. **[**to**]** To establish reasonable fees, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1 et seq.), for the services provided by the commission.

j. To promote and facilitate public-private partnerships between the motion picture and television industry and four-year public institutions of higher education.

k. To establish a motion picture and television industry student internship program providing work experience opportunities for students enrolled in media and fine arts programs at four-year public institutions of higher education who are interested in the motion picture and television industry.

(cf: P.L.2003, c.117, s.44)**]1**

**1[**2. Section 7 of P.L.1977, c. 44 (C.34:1B-28) is amended to read as follows:

7. The Motion Picture and Television Development Commission shall prepare and implement programs to promote a motion picture and television industry within the State. Such a program shall include, but not be limited to:

a. The preparation and distribution of appropriate promotional and informational materials pointing out desirable locations within the State, explaining the benefits and advantages of producing within the State, and detailing the services available at the State and local level and within industry;

b. **[**Facilitate**]** Facilitating cooperation from local **[**government**]**, State, and Federal government agencies and private sector groups in regard to applications, locations, production, and ancillary facilities;

c. **[**Cooperate**]** Cooperating with all sections of management and labor engaged in the motion picture and television industry; and

d. (1) Facilitating public-private partnerships between motion picture and television industry production entities and four-year public institutions of higher education.

(2) The commission shall adopt rules and regulations it deems appropriate to promote and facilitate public-private partnerships and to establish the parameters of public-private partnership agreements necessary for a motion picture or television industry production entity to qualify for tax credits pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39) or section 2 of P.L.2005, c.345 (C.54A:4-12).

(3) The rules and regulations shall address the following elements of public-private partnership agreements:

(a) requirements and guidelines for use of the expertise and research capabilities of four-year public institutions of higher education by motion picture and television industry production entities;

(b) requirements and guidelines for licensing rights authorizing four-year public institutions of higher education to use content produced through public-private partnerships;

(c) requirements and guidelines for motion picture and television industry employment opportunities for students enrolled in media and fine arts programs at four-year public institutions of higher education;

(d) requirements and guidelines for motion picture and television industry internships for students enrolled in media and fine arts programs at four-year public institutions of higher education.

(4) A public-private partnership agreement shall not qualify a taxpayer for tax credits pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39) or section 2 of P.L.2005, c.345 (C.54A:4-12) unless the agreement complies with the requirements and guidelines of subparagraphs (a) and (b) of paragraph (3) of this subsection, and the requirements and guidelines of either subparagraph (c) or (d) of paragraph (3) of this subsection.

(cf: P.L.1977, c.44, s.7)**]1**

**1[**3. Section 1 of P.L.2005, c.345 (C.54:10A-5.39) is amended to read as follows:

1. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, 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 20 percent of the qualified film production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, **[**and**]** (2) principal photography of the film commences **[**within**]** the earlier of 180 days from the date of the original application for the tax credit, or 150 days **[**after**]** from the date of approval by the New Jersey Economic Development Authority of the application for the credit, and (3) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in accordance with the rules and regulations promulgated by the Motion Picture and Television Development Commission pursuant to the "Motion Picture and Television Development Act," P.L.1977, c.44 (C.34:1B-22 et seq.).

The credit allowed 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 22 percent for the qualified film production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an urban enterprise zone, as defined under section 3 of P.L.1983, c.303 (C.52:27H-62), or that represent the purchase of services performed by a resident of an urban enterprise zone.

b. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, 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 up to 20 percent, as determined by the authority, of the qualified digital media content production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2007, c.257, provided that (1) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in accordance with the rules and regulations promulgated by the Motion Picture and Television Development Commission pursuant to the "Motion Picture and Television Development Act," P.L.1977, c.44 (C.34:1B-22 et seq.), and (2) at least $2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey and at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to **[**one or more new**]** full-time or full-time equivalent employees in New Jersey. For purposes of this subsection, "**[**new**]** full-time or full-time equivalent employee" means a person employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer that is an eligible partnership, 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. **[**, and who is determined by the authority to work in a newly created permanent position according to criteria it develops.**]** "**[**New full-time**]** Full-time or full-time equivalent employee" shall not include any person who works as an independent contractor or on a consulting basis for the taxpayer. **[**In determining the amount of any grant of tax credits made pursuant to this subsection, the authority shall consider the number of new full-time positions created by the taxpayer as well as the quality of the full-time positions created, including but not limited to the salaries and benefits provided to new full-time employees. The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the grant of tax credits pursuant to this subsection in the event the taxpayer fails to maintain the new full-time positions that were included in calculating the qualified digital media content production expenses of the taxpayer.**]**

The credit allowed 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 22 percent for the qualified digital media content production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an urban enterprise zone, as defined under section 3 of P.L.1983, c.303 (C.52:27H-62), or that represent the purchase of services performed by a resident of an urban enterprise zone.

c. The amount of the credit **[**applied**]** allowed 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 credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not exceed 50 percent of the tax liability otherwise due and shall not reduce the tax liability 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 priority in which credits allowed pursuant to this section and any other credits shall be taken shall be as determined by the Director of the Division of Taxation. The amount of the 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 over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

d. A taxpayer may, with an application for a credit provided for in subsection a. or subsection b. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the New Jersey Motion Picture and Television Development Commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) or N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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%**]** 75 percent of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a 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. and 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 section 2 of P.L.2005, c.345 (C.54A:4-12).

e. As used in this section:

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

"Film" means a feature film, a television series, or a television show of **[**15**]** 22 minutes or more in length, intended for a national audience ; or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala 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.

"Loan out company" means a personal service corporation that employs an actor or actress who is hired by a film or digital media production company.

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

"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 shall not be limited to, wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities, and equipment. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include, but shall not be limited to, wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, and the cost of rental of facilities and equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"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.

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this **[**act**]** section, including examples of qualified film production and digital media content production expenses, a requirement that an applicant submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, a requirement that an applicant for qualified film production expenses appropriately credit in the film the location of the filming and production within this State, and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The value of 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.2005, c.345 (C.54A:4-12), shall not exceed a cumulative total of **[**$10,000,000**]** $50,000,000 in **[**any**]** each fiscal year for qualified film production expenses 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 cumulative total amount of 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 section 2 of P.L.2005, c.345 (C.54A:4-12) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or 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 section 2 of P.L.2005, c.345 (C.54A:4-12) are not in excess of the amount of credits available. The value of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection b. of this section, shall not exceed a cumulative total of **[**$5,000,000**]** $10,000,000 in **[**any**]** each fiscal year for qualified digital media content production expenses to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). If the total amount of 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 exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or 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 are not in excess of the amount of credits available. The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions and digital media content productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.

g. For the purpose of determining eligibility for or the amount of any grant of tax credits pursuant to this section, the authority shall not include any job that is included in the calculation of a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) or a business retention and relocation grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.).

h. Amounts of tax credits approved to a loan out company not registered to do business in New Jersey shall be subject to New Jersey gross income tax withholding at the applicable rate under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

i. To be eligible for any tax credits authorized under this section, a taxpayer shall demonstrate to the New Jersey Economic Development Authority, at the time of application, that the awarding of tax credits will yield a net positive benefit to the State.

(cf: P.L.2007, c.257, s.1)**]1**

**1[**4. Section 2 of P.L.2005, c.345 (C.54A:4-12) is amended to read as follows:

2. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, 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 20 percent of the qualified film production expenses of the taxpayer during a taxable year commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, **[**and**]** (2) principal photography of the film commences **[**within**]** the earlier of 180 days from the date of the original application for the tax credit, or 150 days **[**after**]** from the date of approval by the New Jersey Economic Development Authority of the application for the credit, and (3) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in accordance with the rules and regulations promulgated by the Motion Picture and Television Development Commission pursuant to the "Motion Picture and Television Development Act," P.L.1977, c.44 (C.34:1B-22 et seq.).

The credit allowed against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 22 percent of the qualified film production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an urban enterprise zone, as defined under section 3 of P.L.1983, c.303 (C.52:27H-62), or that represent the purchase of services performed by a resident of an urban enterprise zone.

b. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq. after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

c. A taxpayer may, with an application for a credit provided for in subsection a. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the New Jersey Motion Picture and Television Development Commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under N.J.S.54A:1-1 et seq. or P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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%**]** 75 percent of the transferred 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 credit pursuant to subsection b. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39).

d. A partnership shall not be allowed a credit under this section directly, but the amount of credit or tax credit transfer certificate of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit or certificate acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year. For the purposes of subsection b. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer. The provisions of subsection c. of this section shall apply to the amount of any credit or certificate of a taxpayer in respect of a distributive share of partnership income.

e. As used in this section:

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

"Film" means a feature film, a television series, or a television show of **[**15**]** 22 minutes or more in length, intended for a national audience; or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala 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.

"Loan out company" means a personal service corporation that employs an actor or actress who is hired by a film or digital media production company.

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

"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 shall not be limited to, wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities, and equipment. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include, but shall not be limited to, wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, and the cost of rental of facilities and equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

”Taxpayer” shall have the same meaning as provided in N.J.S.54A:1-2 and shall include a partnership, an S corporation, a limited liability company, a cooperative, or a non-profit corporation.

"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.

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

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this **[**act**]** section, including examples of qualified film and digital media content production expenses, a requirement that an applicant submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, a requirement that an applicant for qualified film production expenses appropriately credit in the film the location of the filming and production within this State, and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The amount of 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.2005, c.345 (C.54:10A-5.39), shall not exceed a cumulative total of **[**$10,000,000**]** $50,000,000 in **[**any**]** each fiscal year for qualified film production expenses, to apply against the tax imposed under 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). The amount of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection h. of this section and pursuant to subsection b. of section 1 of P.L.2005, c.345 (C.54:10A-5.39), shall not exceed a cumulative total of $10,000,000 in each fiscal year for qualified digital media content production expenses, to apply against the tax imposed under 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 cumulative total amount of credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under this section and subsection a. of section 1 of P.L.2005, c.345 (C.54:10A-5.39) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or certificate on the first day of the next succeeding fiscal year in which tax credits and tax transfer certificates under this section and subsection a. of section 1 are not in excess of the amount of credits available. The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.

g. Amounts of tax credits approved to a loan out company not registered to do business in New Jersey shall be subject to New Jersey gross income tax withholding at the applicable rate under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

h. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, shall be allowed a credit against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount up to 20 percent, as determined by the authority of the qualified digital media content production expenses of the taxpayer during a taxable year commencing after the effective date of P.L.2007, c.257, provided (1) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in accordance with the rules and regulations promulgated by the Motion Picture and Television Development Commission pursuant to the "Motion Picture and Television Development Act," P.L.1977, c.44 (C.34:1B-22 et seq.), and (2) that at least $2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey and at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to full-time or full-time equivalent employees in New Jersey. For purposes of this subsection, "full-time or full-time equivalent employee" means a person employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer that is an eligible partnership, 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 any person who works as an independent contractor or on a consulting basis for the taxpayer.

The credit allowed against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 22 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an urban enterprise zone, as defined under section 3 of P.L.1983, c.303 (C.52:27H-62), or that represent the purchase of services performed by a resident of an urban enterprise zone.

i. To be eligible for any tax credits authorized under this section, a taxpayer shall demonstrate to the New Jersey Economic Development Authority, at the time of application, that the awarding of tax credits will yield a net positive benefit to the State.

(cf: P.L.2007, c.257, s.2)**]1**

**1[**5. (New section) The New Jersey Economic Development Authority, in consultation with the Motion Picture and Television Development Commission, shall study the prospect of developing a film production studio at a location in a northern county. The study shall include, but not be limited to: which, if any, tax credit incentives, either new or existing, would be needed to locate and operate the studio; whether having a studio would attract film production to the State; the production companies that would be interested in building a studio in the State; the potential locations of a studio; and the potential economic benefits of having a studio in the State. One year after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the authority shall complete and submit a copy of the study to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. As used in this section, "northern county" means Bergen, Essex, Hudson, Morris, Passaic, or Union County.**]1**

**1**1. Section 1 of P.L.2005, c.345 (C.54:10A-5.39) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the **[**Director of the Division of Taxation in the Department of the Treasury**]** director and the **[**New Jersey Economic Development Authority**]** authority, 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 20 percent of the qualified film production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2005, c.345 and before July 1, 2022, provided that:

**[**(1)**]** (a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods **[**used or consumed**]** purchased through vendors authorized to do business in New Jersey, **[**and

(2)**]** (b) principal photography of the film commences **[**within**]** the earlier of 180 days from the date of the original application for the credit or 150 days **[**after**]** from the date of approval of the application for the credit,

(c) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in this State in accordance with rules and regulation adopted by the commission,

(d) the taxpayer will include in the end credits of the film, 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 in the end credit of the film placement of a “Filmed in New Jersey” or “Produced in New Jersey” statement,

(e) the taxpayer demonstrates, at the time the original application is made, that approval of the application for the credit will result in a net positive benefit to the State,

(f) the taxpayer will submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, and

(g) 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 this subsection a. to the contrary, the credit allowed 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 22 percent for the qualified film production expenses of the taxpayer during a privilege period that represent purchases of goods through a qualified business located within an enterprise zone or purchases of services performed by a resident of an enterprise zone.

(3) Notwithstanding the provisions of paragraph (1) of this subsection a. to the contrary, the credit allowed 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 22 percent for the qualified film production expenses of the taxpayer during a privilege period that represent wages and salaries of an eligible film or digital media student hire employed in the production of a film.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection a. to the contrary, the credit allowed 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 for the qualified film production expenses of the taxpayer during a privilege period that represent expenses incurred in an eligible municipality for the production of a film including post-production costs incurred in an eligible municipality.

b. (1) Ataxpayer, upon approval of an application to the **[**Director of the Division of Taxation in the Department of the Treasury**]** director and the **[**New Jersey Economic Development Authority**]** authority, 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 up to 20 percent, as determined by the authority of the qualified digital media content production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2007, c.257, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods **[**used or consumed**]** purchased through vendors authorized to do business in New Jersey **[**and**]** ,

(b) at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to **[**one or more new**]** full-time or full-time equivalent employees in New Jersey**[**. For purposes of this subsection, "new full-time employee" means a person 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 employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer that is an eligible partnership, 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 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., and who is determined by the authority to work in a newly created permanent position according to criteria it develops. "New full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the taxpayer. In determining the amount of any grant of tax credits made pursuant to this subsection, the authority shall consider the number of new full-time positions created by the taxpayer as well as the quality of the full-time positions created, including but not limited to the salaries and benefits provided to new full-time employees. The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the grant of tax credits pursuant to this subsection in the event the taxpayer fails to maintain the new full-time positions that were included in calculating the qualified digital media content production expenses of the taxpayer**]** ,

(c) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in this State in accordance with rules and regulation adopted by the commission,

(d) the taxpayer demonstrates, at the time the original application is made, that approval of the application for the credit will result in a net positive benefit to the State,

(e) the taxpayer will submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, and

(f) 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 this subsection b. to the contrary, the credit allowed 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 22 percent for the qualified digital media content production expenses of the taxpayer during a privilege period that represent purchases of goods through a qualified business located within an enterprise zone or purchases of services performed by a resident of an enterprise zone.

(3) Notwithstanding the provisions of paragraph (1) of this subsection b. to the contrary, the credit allowed 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 22 percent for the qualified digital media content production expenses of the taxpayer during a privilege period that represent wages and salaries of an eligible film or digital media student hire employed in the production of digital media content.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection b. to the contrary, the credit allowed 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 for the qualified digital media content production expenses of the taxpayer during a privilege period that represent expenses incurred in an eligible municipality for the production of digital media content.

c. The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for a privilege period, when taken together with any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162, shall not exceed 50 percent of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162. The priority in which credits allowed pursuant to this section and any other credits shall be taken shall be as determined by the **[**Director of the Division of Taxation**]** director. The amount of the 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 may be carried over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

d. A taxpayer may, with an application for a credit provided for in subsection a. or subsection b. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the **[**New Jersey Motion Picture and Television Development Commission**]** commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under P.L.1945, c.162 or N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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% of the transferred 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 shall be subject to the same limitations and conditions that apply to the use of a 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 section 2 of P.L.2005, c.345 (C.54A:4-12).

e. As used in this section:

“Authority” means the New Jersey Economic Development Authority.

“Commission” means the Motion Picture and Television Development Commission.

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

“Eligible film or digital media student hire” means an individual employed by the taxpayer for consideration whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and who is enrolled full-time in a film-related or digital media-related course of study at a four-year public institution of higher education in this State or has successfully completed a film-related or digital media-related course of study at a four-year public institution of higher education in this State not more than 360 days prior to the date the individual is employed by the taxpayer.

“Eligible municipality” means a municipality in this State that has experienced the closure of at least two casino hotel facilities that had been licensed and operated, within the boundaries of the municipality, in accordance with the laws of this State.

“Enterprise zone” means “enterprise zone” as defined by subsection a. of section 3 of P.L.1983, c.303 (C.52:27H-62).

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

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

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

“Loan out company” means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. “Loan out company” does not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

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

“Qualified business” means “qualified business” as defined by subsection c. of section 3 of P.L.1983, c.303 (C.52:27H-62).

"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 shall not be limited to wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be 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 by subsection h. of this section. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and equipment.Payment made to a loan out company or to an independent contractor shall not be a qualified film production expense unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"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.

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

f. The **[**Director of the Division of Taxation in the Department of the Treasury**]** director, in consultation with the **[**New Jersey Motion Picture and Television Development Commission**]** commission and the **[**New Jersey Economic Development Authority**]** authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production and digital media content production expenses and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The value of 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.2005, c.345 (C.54A:4-12) shall not exceed a cumulative total of $10,000,000 in any fiscal year prior to fiscal year 2016, and a cumulative total of $50,000,000 in fiscal year 2016 and in each fiscal year prior to fiscal year 2023, 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 cumulative total amount of 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.2005, c.345 (C.54A:4-12) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or 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.2005, c.345 (C.54A:4-12) are not in excess of the amount of credits available. The value of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2005, c.345 (C.54A:4-12) shall not exceed a cumulative total of $5,000,000 in any fiscal year prior to fiscal year 2016, and a cumulative total of $10,000,000 in fiscal year 2016 and in each fiscal year prior to fiscal year 2023, 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 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.2005, c.345 (C.54A:4-12) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or 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.2005, c.345 (C.54A:4-12) are not in excess of the amount of credits available. **[**The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions and digital media content productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.**]**

g. For the purpose of determining eligibility for or the amount of any grant of tax credits pursuant to this section, the authority shall not include any job or expense that is included in the calculation of **[**a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) or a business retention and relocation grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.)**]** any other State tax credit or grant for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed.

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

(cf: P.L.2007, c.257, s.1)

**1**2. Section 2 of P.L.2005, c.345 (C.54A:4-12) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the **[**Director of the Division of Taxation in the Department of the Treasury**]** director and the **[**New Jersey Economic Development Authority**]** authority, 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 20 percent of the qualified film production expenses of the taxpayer during a taxable year commencing after the effective date of P.L.2005, c.345 and before July 1, 2022, provided that:

**[**(1)**]** (a) at least 60 percent of the total production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods **[**used or consumed**]** purchased through vendors authorized to do business in New Jersey, **[**and

(2)**]** (b) principal photography of the film commences **[**within**]** the earlier of 180 days from the date of the original application for the credit or 150 days **[**after**]** from the date of approval of the application for the credit,

(c) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in this State in accordance with rules and regulation adopted by the commission,

(d) the taxpayer will include in the end credits of the film, 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 in the end credit of the film placement of a “Filmed in New Jersey” or “Produced in New Jersey” statement,

(e) the taxpayer demonstrates, at the time the original application is made, that approval of the application for the credit will result in a net positive benefit to the State,

(f) the taxpayer will submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, and

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

(2) Notwithstanding the provisions of paragraph (1) of this subsection a. to the contrary, the credit allowed 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 22 percent for the qualified film production expenses of the taxpayer during a taxable year that represent purchases of goods through a qualified business located within an enterprise zone or purchases of services performed by a resident of an enterprise zone.

(3) Notwithstanding the provisions of paragraph (1) of this subsection a. to the contrary, the credit allowed 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 22 percent for the qualified film production expenses of the taxpayer during a taxable year that represent wages and salaries of an eligible film or digital media student hire employed in the production of a film.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection a. to the contrary, the credit allowed 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 for the qualified film production expenses of the taxpayer during a taxable year that represent expenses incurred in an eligible municipality for the production of a film including post-production costs incurred in an eligible municipality.

b. (1) Ataxpayer, upon approval of an application to the director and the authority, 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 up to 20 percent, as determined by the authority of the qualified digital media content production expenses of the taxpayer during a taxable year commencing after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods purchased through vendors authorized to do business in New Jersey,

(b) at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to full-time or full-time equivalent employees in New Jersey,

(c) the taxpayer will enter into a public-private partnership with a four-year public institution of higher education in this State in accordance with rules and regulation adopted by the commission,

(d) the taxpayer demonstrates, at the time the original application is made, that approval of the application for the credit will result in a net positive benefit to the State,

(e) the taxpayer will submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, and

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

(2) Notwithstanding the provisions of paragraph (1) of this subsection b. to the contrary, the credit allowed 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 22 percent for the qualified digital media content production expenses of the taxpayer during a taxable year that represent purchases of goods through a qualified business located within an enterprise zone or purchases of services performed by a resident of an enterprise zone.

(3) Notwithstanding the provisions of paragraph (1) of this subsection b. to the contrary, the credit allowed 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 22 percent for the qualified digital media production expenses of the taxpayer during a taxable year that represent wages and salaries of an eligible film or digital media student hire employed in the production of digital media content.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection b. to the contrary, the credit allowed 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 for the qualified digital media production expenses of the taxpayer during a taxable year that represent expenses incurred in an eligible municipality for the production of digital media content.

**[**b.**]** c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq. after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

**[**c.**]** d. A taxpayer may, with an application for a credit provided for in subsection a. or subsection b. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the **[**New Jersey Motion Picture and Television Development Commission**]** commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under N.J.S.54A:1-1 et seq. or P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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% of the transferred 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 credit pursuant to subsection **[**b.**]** 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 P.L.1945, c.162 and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39).

**[**d.**]** e. (1) A partnership shall not be allowed a credit under this section directly, but the amount of credit or tax credit transfer certificate of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit or certificate acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year. For the purposes of subsection **[**b.**]** c. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer. The provisions of subsection **[**c.**]** d. of this section shall apply to the amount of any credit or certificate of a taxpayer in respect of a distributive share of partnership income.

(2) A New Jersey S corporation shall not be allowed a credit under this section directly, but the amount of credit or tax credit transfer certificate of a taxpayer in respect of a pro rata share of S corporation income under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit or certificate 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. For the purposes of subsection c. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's pro rata share of S corporation income included in gross income bears to the total gross income of the taxpayer. The provisions of subsection d. of this section shall apply to the amount of any credit or certificate of a taxpayer in respect of a pro rata share of S corporation income.

**[**e.**]** f. As used in this section:

“Authority” means the New Jersey Economic Development Authority.

“Commission” means the Motion Picture and Television Development Commission.

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

“Eligible film or digital media student hire” means an individual employed by the taxpayer for consideration whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and who is enrolled full-time in a film-related or digital media-related course of study at a four-year public institution of higher education in this State or has successfully completed a film-related or digital media-related course of study at a four-year public institution of higher education in this State not more than 360 days prior to the date the individual is employed by the taxpayer.

“Eligible municipality” means a municipality in this State that has experienced the closure of at least two casino hotel facilities that had been licensed and operated, within the boundaries of the municipality, in accordance with the laws of this State.

“Enterprise zone” means “enterprise zone” as defined by subsection a. of section 3 of P.L.1983, c.303 (C.52:27H-62).

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

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

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

“Loan out company” means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. “Loan out company” does 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 S Corporation” means a corporation that is an S corporation; which has made a valid election pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S corporation continuously since the effective date of the valid election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

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

“Qualified business” means “qualified business” as defined by subsection c. of section 3 of P.L.1983, c.303 (C.52:27H-62).

“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 shall not be limited to wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be 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 by subsection i. of this section. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be 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 i. of this section. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

“Taxpayer” means “taxpayer” as defined by N.J.S.54A:1-2 and shall include a partnership, an S corporation, a limited liability company, a cooperative, or a nonprofit corporation.

“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.

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

**[**f.**]** g. The **[**Director of the Division of Taxation in the Department of the Treasury**]** director, in consultation with the **[**New Jersey Motion Picture and Television Development Commission**]** commission and the **[**New Jersey Economic Development Authority**]** authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production expenses and digital media content production expenses and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The amount of 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.2005, c.345 (C.54:10A-5.39) shall not exceed a cumulative total of $10,000,000 in any fiscal year prior to fiscal year 2016, and a cumulative total of $50,000,000 in fiscal year 2016 and in each fiscal year prior to fiscal year 2023, to apply against the tax imposed under 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 cumulative total amount of 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.2005, c.345 (C.54:10A-5.39) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or certificate on the first day of the next succeeding fiscal year in which tax credits and tax transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2005, c.345 (C.54:10A-5.39) are not in excess of the amount of credits available. **[**The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed**]** The amount of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2005, c.345 (C.54:10-5.39), shall not exceed a cumulative total of $5,000,000 in any fiscal year prior to fiscal year 2016, and a cumulative total of $10,000,000 in fiscal year 2016 and in each fiscal year prior to fiscal year 2023, to apply against the tax imposed pursuant to 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 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.2005, c.345 (C.54:10A-5.39) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or 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.2005, c.345 (C.54:10A-5.39) are not in excess of the amount of credits available.

h. For the purpose of determining eligibility for or the amount of any grant of tax credits pursuant to this section, the authority shall not include any job or expense that is included in the calculation of any other State tax credit or grant for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed.

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

(cf: P.L.2007, c.257, s.2)

**1[**6.**]** 3.**1** Section 3 of P.L.2005, c.345 is amended to read as follows:

3. **[**This act**]** P.L.2005, c.345 shall take effect **[**immediately**]** January 12, 2006 and apply to qualified film production expenses incurred on or after **[**the**]** that date **[**of enactment**]**, and sections 1 and 2 of P.L.2005, c.345 shall apply respectively to privilege periods and taxable years beginning on and after July 1, 2005 **1[**and shall expire with privilege periods and taxable years first commencing after July 1, **[**2015**]** 2022**]1**.

**1**4. (New section) a. The New Jersey Economic Development Authority, in consultation with the Motion Picture and Television Development Commission, shall study the prospect of developing a film production studio at a location in Bergen, Essex, Hudson, Morris, Passaic, or Union County.

b. The study shall, at a minimum, determine:

which, if any, tax credit incentives, either new or existing, are needed to locate and operate the studio at a location in Bergen, Essex, Hudson, Morris, Passaic, or Union County;

whether having a studio at a location in Bergen, Essex, Hudson, Morris, Passaic, or Union County will attract film production to the State;

the production companies interested in building a studio at a location in Bergen, Essex, Hudson, Morris, Passaic, or Union County;

the potential location of a studio in Bergen, Essex, Hudson, Morris, Passaic, or Union County; and

the potential economic benefits of having a studio in Bergen, Essex, Hudson, Morris, Passaic, or Union County.

c. The authority shall complete and submit a copy of the study to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on or before the 360th day following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill).**1**

**1[**7.**]** 5.**1** This act shall take effect immediately **1**and sections 1 and 2 shall apply respectively to privilege periods and taxable years beginning on and after July 1, 2015**1**.