

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

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

4

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

7

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 16, 2021.

²Assembly floor amendments adopted January 10, 2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 h. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 succeeding fiscal year in which tax credits and tax credit transfer
 2 certificates under subsection a. of this section and subsection a. of
 3 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
 4 the amount of credits¹ ~~Notwithstanding the limitations set forth~~
 5 ~~in this paragraph, if in any fiscal year the authority receives~~
 6 ~~applications for tax credits under subsection a. of this section and~~
 7 ~~subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in~~
 8 ~~amounts exceeding the total amount of tax credits available for the~~
 9 ~~fiscal year, then the authority may approve applications, in the order~~
 10 ~~in which such applications were submitted, for excess tax credits~~
 11 ~~during the year in which the application was submitted, provided~~
 12 ~~that the amount of excess credits shall be subtracted from the total~~
 13 ~~amounts allowed for the next following fiscal year in which credits~~
 14 ~~are available, and provided further that the taxpayer shall not claim~~
 15 ~~the excess tax credit or tax credit transfer certificate until the first~~
 16 ~~day of the fiscal year from which the credits were made¹~~ ~~If the~~
 17 ~~cumulative total amount of tax credits, and tax credit transfer~~
 18 ~~certificates, allowed to taxpayers for taxable years or privilege~~
 19 ~~periods commencing during a single fiscal year under subsection a.~~
 20 ~~of this section and subsection a. of section 1 of P.L.2018, c.56~~
 21 ~~(C.54:10A-5.39b) exceeds the amount of tax credits available in~~
 22 ~~that fiscal year, then taxpayers who have first applied for and have~~
 23 ~~not been allowed a tax credit or tax credit transfer certificate~~
 24 ~~amount for that reason shall be allowed, in the order in which they~~
 25 ~~have submitted an application, the amount of tax credit or tax credit~~
 26 ~~transfer certificate on the first day of the next succeeding fiscal year~~
 27 ~~in which tax credits and tax credit transfer certificates under~~
 28 ~~subsection a. of this section and subsection a. of section 1 of~~
 29 ~~P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of~~
 30 ~~credits¹ available.~~

31 Notwithstanding any provision of ¹this¹ paragraph ¹[(1) of this
 32 subsection]¹ to the contrary, for any fiscal year in which the
 33 amount of tax credits approved ¹to New Jersey studio partners, New
 34 Jersey film-lease partners, or taxpayers other than New Jersey
 35 studio partners and New Jersey film-lease partners¹ pursuant to this
 36 paragraph is less than the cumulative total amount of tax credits
 37 permitted to be approved ¹to each such category¹ in that fiscal year,
 38 the authority shall certify the amount of the remaining tax credits
 39 available for approval ¹to each such category¹ in that fiscal year,
 40 and shall increase the cumulative total amount of tax credits
 41 permitted to be approved for New Jersey studio partners ¹, New
 42 Jersey film-lease partners, or taxpayers other than New Jersey
 43 studio partners and New Jersey film-lease partners¹ in the
 44 subsequent fiscal year by the certified amount remaining from the
 45 prior fiscal year. The authority shall also certify, for each fiscal
 46 year, the amount of tax credits that were previously approved, but

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

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

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

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

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

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

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

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

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

9 i. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39

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

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

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

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

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

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

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

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

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

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

35

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of project applications and the amount of tax credits being sought
2 by those applications;

3 (ii) the need to protect the State's economic position in the event
4 of an economic downturn;

5 (iii) the quality of project applications and the net economic
6 benefit to the State and municipalities associated with those
7 applications;

8 (iv) opportunities for project applications to strengthen or protect
9 the competitiveness of the state under the prevailing market
10 conditions;

11 (v) enhanced access to employment and investment for
12 underserved populations in distressed municipalities and qualified
13 incentives tracts;

14 (vi) increased investment and employment in high-growth
15 technology sectors and in projects that entail collaboration with
16 education institutions in the State;

17 (vii) increased development proximate to mass transit facilities;

18 (viii) any other factor deemed relevant by the authority.

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

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

30
31 ¹**[3.] 5.**¹ This act shall take effect immediately.

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