

[First Reprint]

SENATE, No. 4094

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

Sponsored by:

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District 37 (Bergen)

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District 36 (Bergen and Passaic)

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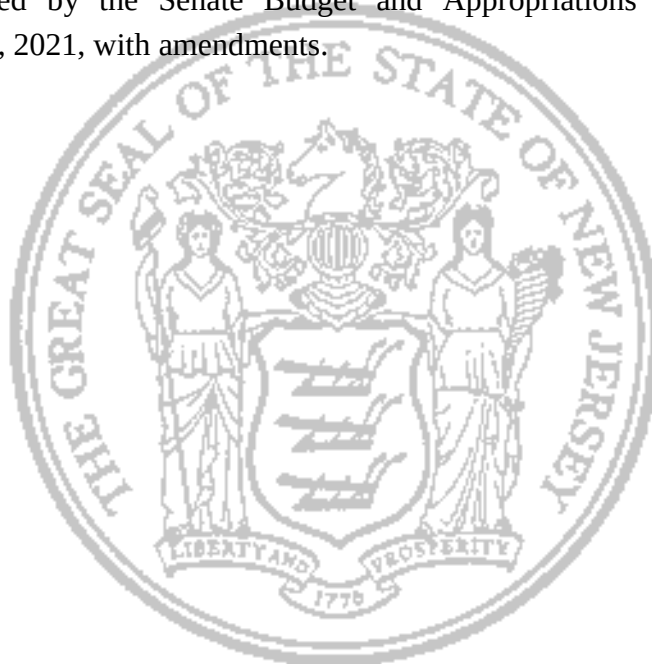
Senators Lagana, Ruiz and Greenstein

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 16, 2021, with amendments.



(Sponsorship Updated As Of: 12/20/2021)

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

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

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

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

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

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

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

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

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

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

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.

1 sound stage or other location that is located in the State within a 30-
2 mile radius of the intersection of Eighth Avenue/Central Park West,
3 Broadway, and West 59th Street/Central Park South, New York,
4 New York.

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

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

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

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

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

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

35 c. No tax credit shall be allowed pursuant to this section for
36 any costs or expenses included in the calculation of any other tax
37 credit or exemption granted pursuant to a claim made on a tax
38 return filed with the director, or included in the calculation of an
39 award of business assistance or incentive, for a period of time that
40 coincides with the privilege period for which a tax credit authorized
41 pursuant to this section is allowed. The order of priority in which
42 the tax credit allowed pursuant to this section and any other tax
43 credits allowed by law may be taken shall be as prescribed by the
44 director. The amount of the tax credit applied under this section
45 against the tax imposed pursuant to section 5 of P.L.1945, c.162
46 (C.54:10A-5), for a privilege period, when taken together with any
47 other payments, credits, deductions, and adjustments allowed by

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

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

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

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

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

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

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

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

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

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

1 certificates under subsection b. of this section and subsection b. of
2 section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the
3 amount of credits¹ available.

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

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

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

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

39 h. As used in this section:

40 "Authority" means the New Jersey Economic Development
41 Authority.

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

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

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

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

39 "Full-time or full-time equivalent employee" means an individual
40 employed by the taxpayer for consideration for at least 35 hours a
41 week, or who renders any other standard of service generally
42 accepted by custom or practice as full-time or full-time equivalent
43 employment, whose wages are subject to withholding as provided in
44 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
45 who is a partner of a taxpayer, who works for the partnership for at
46 least 35 hours a week, or who renders any other standard of service
47 generally accepted by custom or practice as full-time or full-time

1 equivalent employment, and whose distributive share of income,
2 gain, loss, or deduction, or whose guaranteed payments, or any
3 combination thereof, is subject to the payment of estimated taxes, as
4 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
5 et seq. "Full-time or full-time equivalent employee" shall not
6 include an individual who works as an independent contractor or on
7 a consulting basis for the taxpayer.

8 "Highly compensated individual" means an individual who
9 directly or indirectly receives compensation in excess of \$500,000
10 for the performance of services used directly in a production. An
11 individual receives compensation indirectly when the taxpayer pays
12 a loan out company that, in turn, pays the individual for the
13 performance of services.

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

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

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

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

13 "New Jersey studio partner" means a film production company
14 that has made a commitment to produce films or commercial
15 audiovisual products in New Jersey and has developed, purchased,
16 or executed a 10-year contract to lease a production facility of
17 250,000 square feet or more ¹**【as a "transformative project"**
18 **pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333)】**¹. No
19 more than three film production companies may be designated as a
20 New Jersey studio partner.

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

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

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

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

1 to subsection g. of this section. "Qualified digital media content
2 production expenses" shall not include expenses incurred in
3 marketing, promotion, or advertising digital media or other costs
4 not directly related to the production of digital media content.
5 Costs related to the acquisition or licensing of digital media content
6 by the taxpayer for distribution or incorporation into the taxpayer's
7 digital media content shall not be deemed "qualified digital media
8 content production expenses."

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

34 (1) for a New Jersey studio partner that incurs more than
35 \$15,000,000, but less than \$50,000,000, in qualified film production
36 expenses in the State, an amount, not to exceed \$15,000,000, of the
37 wages or salaries or other compensation for writers, directors,
38 including music directors, producers, and performers, other than
39 background actors with no scripted lines, shall constitute qualified
40 film production expenses;

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

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

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

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

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

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

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

43 (cf: P.L.2021, c.160, s.58)

44
45 2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
46 read as follows:

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

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

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

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

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

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

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

41 b. (1) A taxpayer, upon approval of an application to the
42 authority and the director, shall be allowed a credit against the tax
43 otherwise due for the taxable year under the "New Jersey Gross
44 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:
45 **【20】** 30 percent of the qualified digital media content production
46 expenses of the taxpayer during a taxable year commencing on or
47 after July 1, 2018 but before July 1, 2034, provided that:

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

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

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

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

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

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

45 d. (1) A business entity that is classified as a partnership for
46 federal income tax purposes shall not be allowed a tax credit
47 pursuant to this section directly, but the amount of tax credit of a

1 taxpayer in respect of a distributive share of entity income, shall be
2 determined by allocating to the taxpayer that proportion of the tax
3 credit acquired by the entity that is equal to the taxpayer's share,
4 whether or not distributed, of the total distributive income or gain
5 of the entity for its taxable year ending within or with the taxpayer's
6 taxable year.

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

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

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

1 pursuant to subsections c. and d. of this section. Any amount of a
2 tax credit transfer certificate obtained by a purchaser or assignee
3 under subsection e. of this section may be applied against the
4 purchaser's or assignee's tax liability under P.L.1945, c.162
5 (C.54:10A-1 et seq.) and shall be subject to the same limitations
6 and conditions that apply to the use of a credit pursuant to
7 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

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

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

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

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

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

1 partners¹ in the subsequent fiscal year by the amount of tax credits
2 previously approved ¹for each such category¹, but not subject to
3 redemption or transfer. ¹In each fiscal year in which tax credits
4 remain unapproved for, or unredeemed or not transferred by, New
5 Jersey film-lease partners or taxpayers other than New Jersey studio
6 partners and New Jersey film-lease partners, the authority may
7 reallocate some or all of such remaining tax credits in the
8 subsequent fiscal year between the category of New Jersey film-
9 lease partners and the category of taxpayers other than New Jersey
10 studio partners and New Jersey film-lease partners in lieu of
11 increasing the tax credits available for the respective category by
12 the amount reallocated.¹

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

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

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

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

31 g. A taxpayer shall submit to the authority and the director a
32 report prepared by an independent certified public accountant
33 licensed in this State to verify the taxpayer's tax credit claim
34 following the completion of the production. The report shall be
35 prepared by the independent certified public accountant pursuant to
36 agreed upon procedures prescribed by the authority and the director,
37 and shall include such information and documentation as shall be
38 determined to be necessary by the authority and the director to
39 substantiate the qualified film production expenses or the qualified
40 digital media content production expenses of the taxpayer. A single
41 report with attachments deemed necessary by the authority shall be
42 submitted electronically. Upon receipt of the report, the authority
43 and the director shall review the findings of the independent
44 certified public accountant's report, and shall make a determination
45 as to the qualified film production expenses or the qualified digital
46 media content production expenses of the taxpayer. The authority's
47 and the director's review shall include, but shall not be limited to: a

1 review of all non-payroll qualified film production expense items
2 and non-payroll digital media content production expense items
3 over \$20,000; a review of 100 randomly selected non-payroll
4 qualified film production expense items and non-payroll digital
5 media content production expense items that are greater than
6 \$2,500, but less than \$20,000; a review of 100 randomly selected
7 non-payroll qualified film production expense items and non-
8 payroll digital media content production expense items that are less
9 than \$2,500; a review of the qualified wages for the 15 employees,
10 independent contractors, or loan-out companies with the highest
11 qualified wages; and a review of the qualified wages for 35
12 randomly selected employees, independent contractors, or loan-out
13 companies with qualified wages other than the 15 employees,
14 independent contractors, or loan-out companies with the highest
15 qualified wages. The taxpayer's qualified film production expenses
16 and digital media content production expenses shall be adjusted
17 based on any discrepancies identified for the reviewed non-payroll
18 qualified film production expense items, non-payroll digital media
19 content production expense items and qualified wages. The
20 taxpayer's qualified film production expenses and digital media
21 content production expenses also shall be adjusted based on the
22 projection of any discrepancies identified based on the review of
23 randomly selected expense items or wages pursuant to this
24 subsection to the extent that the discrepancies exceed one percent of
25 the total reviewed non-payroll qualified film production expense
26 items, non-payroll digital media content production expense items,
27 or qualified wages. The determination shall be provided in writing
28 to the taxpayer, and a copy of the written determination shall be
29 included in the filing of a return that includes a claim for a tax
30 credit allowed pursuant to this section.

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

1 duties and responsibilities as an employer pursuant to chapter 7 of
2 Title 54A of the New Jersey Statutes for the taxable year for any
3 payments relating to the payments on which the taxpayer withheld.

4 i. As used in this section:

5 "Authority" means the New Jersey Economic Development
6 Authority.

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

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

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

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

42 "Full-time or full-time equivalent employee" means an individual
43 employed by the taxpayer for consideration for at least 35 hours a
44 week, or who renders any other standard of service generally
45 accepted by custom or practice as full-time or full-time equivalent
46 employment, whose wages are subject to withholding as provided in
47 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or

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

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

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

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

43 "Loan out company" means a personal service corporation or
44 other entity that is contracted with by the taxpayer to provide
45 specified individual personnel, such as artists, crew, actors,
46 producers, or directors for the performance of services used directly
47 in a production. "Loan out company" shall not include entities

1 contracted with by the taxpayer to provide goods or ancillary
2 contractor services such as catering, construction, trailers,
3 equipment, or transportation.

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

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

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

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

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

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

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

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

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

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

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

4 (3) for a New Jersey studio partner that incurs \$100,000,000 or
5 more, but less than \$150,000,000, in qualified film production
6 expenses in the State, an amount, not to exceed \$40,000,000, 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; **and** ¹and¹

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

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

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

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

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

32

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

34 4. a. A taxpayer, upon approval of an application to the
35 authority and the director, shall be allowed a credit against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or
37 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
38 seq. in an amount equal to 2 percent of the qualified film or digital
39 media content production expenses of the taxpayer during a
40 privilege period or taxable year commencing on or after July 1,
41 2018 but before July 1, **2028** 2034, provided that:

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

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

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

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

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

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

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

30
31 ¹4. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
32 read as follows:

33 98. a. The combined value of all tax credits awarded under the
34 "Historic Property Reinvestment Act," sections 1 through 8 of
35 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the
36 "Brownfield Redevelopment Incentive Program Act," sections 9
37 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);
38 the "New Jersey Innovation Evergreen Act," sections 20 through 34
39 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food
40 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
41 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-
42 Anchored Development Act," sections 43 through 53 of P.L.2020,
43 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
44 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
45 322 through C.34:1B-335); the "Emerge Program Act," sections 68
46 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of

1 P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of
2 \$11.5 billion over a seven-year period, subject to the conditions and
3 limitations set forth in this section. Of this \$11.5 billion, \$2.5
4 billion shall be reserved for transformative projects approved under
5 the Aspire Program.

6 b. (1) The total value of tax credits awarded under any
7 constituent program of the "New Jersey Economic Recovery Act of
8 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
9 following annual limitations, except as otherwise provided in
10 subsection c. of this section:

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

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

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

28 (d) for tax credits awarded under the "Food Desert Relief Act,"
29 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
30 C.34:1B-310), the total value of tax credits annually awarded during
31 each of the first six years of the seven-year period shall not exceed
32 \$40 million;

33 (e) for tax credits awarded under the "New Jersey Community-
34 Anchored Development Act," sections 43 through 53 of P.L.2020,
35 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
36 credits annually awarded during each of the first six years of the
37 seven-year period shall not exceed \$200 million, except that during
38 each of the first six years of the seven-year period, the authority
39 shall annually award tax credits valuing no greater than \$130
40 million for projects located in the 13 northern counties of the State,
41 and the authority shall annually award tax credits valuing no greater
42 than \$70 million for projects located in the eight southern counties
43 of the State. If during any of the first six years of the seven-year
44 period, the authority awards tax credits in an amount less than the
45 annual limitation for projects located in northern counties or
46 southern counties, as applicable, the uncommitted portion of the
47 annual limitation shall be available to be deployed by the authority

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

12 (f) for tax credits awarded under the "New Jersey Aspire
13 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
14 322 through C.34:1B-335), and the "Emerge Program Act," sections
15 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
16 including tax credits awarded for transformative projects, the total
17 value of tax credits annually awarded during each of the first six
18 years of the seven-year period shall not exceed \$1.1 billion. If the
19 authority awards tax credits in an amount less than the annual
20 limitation, then the uncommitted portion of the annual limitation
21 shall be made available for qualified offshore wind projects
22 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),
23 pursuant to subparagraph (h) of this paragraph, or New Jersey
24 studio partners and New Jersey film-lease partners awarded under
25 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
26 12b), pursuant to subparagraph (i) of this paragraph. During each
27 of the first six years of the seven-year period, the authority shall
28 annually award tax credits valuing no greater than \$715 million for
29 projects located in the northern counties of the State, and the
30 authority shall annually award tax credits valuing no greater than
31 \$385 million for projects located in the southern counties of the
32 State under the "New Jersey Aspire Program Act," sections 54
33 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
34 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
35 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
36 seven-year period, the authority awards tax credits under the "New
37 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
38 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
39 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
40 336 et al.), in an amount less than the annual limitation for projects
41 located in northern counties or southern counties, as applicable, the
42 uncommitted portion of the annual limitation shall be available to
43 be deployed by the authority in a subsequent year, provided that the
44 uncommitted portion of tax credits shall be awarded for projects
45 located in the applicable geographic area, except that (i) after the
46 completion of the third year of the seven-year period, the authority
47 may deploy 50 percent of the uncommitted portion of tax credits for

1 any previous year without consideration to the county in which a
2 project is located; and (ii) after the completion of the sixth year of
3 the seven-year period, the authority may deploy all available tax
4 credits, including the uncommitted portion of the annual limitation
5 for any previous year, without consideration to the county in which
6 a project is located;

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

15 (h) from the tax credits made available, pursuant to
16 subparagraph (f) of this paragraph, to the "New Jersey Aspire
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
18 322 through C.34:1B-335), and the "Emerge Program Act," sections
19 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
20 including tax credits awarded for transformative projects, an
21 amount not to exceed \$350,000,000 shall be made available for
22 qualified offshore wind projects awarded a credit pursuant to
23 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
24 years of the seven-year period; and

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

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

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

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

1 (iii) the quality of project applications and the net economic
2 benefit to the State and municipalities associated with those
3 applications;
4 (iv) opportunities for project applications to strengthen or protect
5 the competitiveness of the state under the prevailing market
6 conditions;
7 (v) enhanced access to employment and investment for
8 underserved populations in distressed municipalities and qualified
9 incentives tracts;
10 (vi) increased investment and employment in high-growth
11 technology sectors and in projects that entail collaboration with
12 education institutions in the State;
13 (vii) increased development proximate to mass transit facilities;
14 (viii) any other factor deemed relevant by the authority.
15 c. In the event that the authority in any year approves projects
16 for tax credits in an amount less than the annual limitations set forth
17 in paragraph (1) of subsection b. of this section, then the
18 uncommitted portion of the annual limitation shall be available to
19 be deployed by the authority in future years for projects under the
20 same program; provided however, that in no event shall the
21 aggregate amount of tax credits approved be in excess of the overall
22 cap of \$11.5 billion, and in no event shall the uncommitted portion
23 of the annual limitation for any previous year be deployed after the
24 conclusion of the seven-year period.¹
25 (cf: P.L.2021, c.160, s.47)
26
27 ¹**[3.] 5.**¹ This act shall take effect immediately.