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SENATE BILL 328

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; PROVIDING A TAX CREDIT FOR A PORTION OF
DIRECT FILM PRODUCTION EXPENDITURES FOR FILMS MADE IN NEW
MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit for fifteen percent of direct production expenditures made in New Mexico directly attributable to the production in New Mexico of a film.

B. The film production tax credit shall not be claimed with respect to expenditures for which the film production company has delivered a nontaxable transaction

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1 certificate pursuant to Section 7-9-86 NMSA 1978.

2 C. A long-form narrative film production for which
3 the film production tax credit is claimed shall contain an
4 acknowledgment that the production was filmed in New Mexico.

5 D. As used in this section:

6 (1) "direct production expenditure" includes:

7 (a) the cost of a story and scenario to
8 be used for a film;

9 (b) wages or salaries for talent,
10 management and labor paid to persons who are residents of New
11 Mexico;

12 (c) the cost of set construction and
13 operations, wardrobe, accessories and related services;

14 (d) the cost of photography, sound
15 synchronization, lighting and related services;

16 (e) the cost of editing and related
17 services;

18 (f) rental of facilities and equipment;

19 (g) leasing of vehicles;

20 (h) costs of food or lodging;

21 (i) airfare if purchased through a New
22 Mexico-based travel agency or travel company;

23 (j) insurance costs and bonding if
24 purchased through a New Mexico-based insurance company; and

25 (k) other direct costs of producing the

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1 film as are consistent with generally accepted entertainment
2 industry practices;

3 (2) "film" means a single media or multimedia
4 program, including national advertising messages, that is
5 fixed on film, videotape, computer disc, laser disc or other
6 similar delivery medium, that can be viewed or reproduced and
7 that is exhibited in theaters, licensed for exhibition by
8 individual television stations, groups of stations, networks,
9 cable television stations or other means or licensed for the
10 home viewing market; and

11 (3) "film production company" means a person
12 that produces film for exhibition in theaters, on television
13 or elsewhere.

14 E. To be eligible for the film production tax
15 credit, a film production company shall submit to the New
16 Mexico film division of the economic development department
17 information required by the division to demonstrate conformity
18 with the requirements of this section. The division shall
19 determine the eligibility of the company and shall report this
20 information to the taxation and revenue department in a manner
21 and at times the economic development department and the
22 taxation and revenue department shall agree upon.

23 F. To receive a film production tax credit, a film
24 production company shall apply to the taxation and revenue
25 department on forms and in the manner the department may

1 prescribe. The application shall include a certification of
2 the amount of direct production expenditures made in New
3 Mexico with respect to the film production for which the film
4 production company is seeking the film production tax credit.
5 If the requirements of this section have been complied with,
6 the taxation and revenue department shall approve the film
7 production tax credit and issue a document granting the tax
8 credit.

9 G. The film production company may apply all or a
10 portion of the film production tax credit granted by the
11 document against personal income tax liability or corporate
12 income tax liability. If the amount of the film production
13 tax credit claimed exceeds the film production company's tax
14 liability for the taxable year in which the credit is being
15 claimed, the excess shall be refunded.

16 Section 2. APPLICABILITY.--The provisions of this act
17 apply to taxable years beginning on or after January 1, 2002.

18 Section 3. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect
20 immediately.