

1 HOUSE BILL 527

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales and Javier Martínez and Brian Egolf

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10 AN ACT

11 RELATING TO THE FILM PRODUCTION TAX CREDIT ACT; REQUIRING THE
12 TAXATION AND REVENUE DEPARTMENT TO PAY ALL APPROVED CREDITS
13 PURSUANT TO THAT ACT; MAKING AN APPROPRIATION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 7-2F-1 NMSA 1978 (being Laws 2002,
17 Chapter 36, Section 1, as amended) is amended to read:

18 "7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION
19 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY
20 1, 2016.--

21 A. The tax credit created by this section may be
22 referred to as the "film production tax credit".

23 B. Except as otherwise provided in this section, an
24 eligible film production company may apply for, and the
25 taxation and revenue department may allow, subject to the

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1 limitation in this section, a tax credit in an amount equal to
2 twenty-five percent of:

3 (1) direct production expenditures made in New
4 Mexico that:

5 (a) are directly attributable to the
6 production in New Mexico of a film or commercial audiovisual
7 product;

8 (b) are subject to taxation by the state
9 of New Mexico;

10 (c) exclude direct production
11 expenditures for which another taxpayer claims the film
12 production tax credit; and

13 (d) do not exceed the usual and
14 customary cost of the goods or services acquired when purchased
15 by unrelated parties. The secretary of taxation and revenue
16 may determine the value of the goods or services for purposes
17 of this section when the buyer and seller are affiliated
18 persons or the sale or purchase is not an arm's length
19 transaction; and

20 (2) postproduction expenditures made in
21 New Mexico that:

22 (a) are directly attributable to the
23 production of a commercial film or audiovisual product;

24 (b) are for services performed in New
25 Mexico;

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1 (c) are subject to taxation by the state
2 of New Mexico;

3 (d) exclude postproduction expenditures
4 for which another taxpayer claims the film production tax
5 credit; and

6 (e) do not exceed the usual and
7 customary cost of the goods or services acquired when purchased
8 by unrelated parties. The secretary of taxation and revenue
9 may determine the value of the goods or services for purposes
10 of this section when the buyer and seller are affiliated
11 persons or the sale or purchase is not an arm's length
12 transaction.

13 C. In addition to the percentage applied pursuant
14 to Subsection B of this section, another five percent shall be
15 applied in calculating the amount of the film production tax
16 credit to direct production expenditures:

17 (1) on a standalone pilot intended for series
18 television in New Mexico or on series television productions
19 intended for commercial distribution with an order for at least
20 six episodes in a single season; provided that the New Mexico
21 budget for each of those six episodes is fifty thousand dollars
22 (\$50,000) or more; or

23 (2) on a production with a total New Mexico
24 budget of the following amounts; provided that the expenditures
25 are directly attributable and paid to a New Mexico resident who

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1 is hired as industry crew, or who is hired as a producer,
2 writer or director working directly with the physical
3 production and has filed a New Mexico income tax return as a
4 resident in the two previous taxable years:

5 (a) not more than thirty million dollars
6 (\$30,000,000) that shoots at least ten principal photography
7 days in New Mexico at a qualified production facility; provided
8 that a film production company in principal photography on or
9 after April 10, 2015 shall: 1) shoot at least seven of those
10 days at a sound stage that is a qualified production facility
11 and the remaining number of required days, if any, at a
12 standing set that is a qualified production facility; and 2)
13 for each of the ten days, include industry crew working on the
14 premises of those facilities for a minimum of eight hours
15 within a twenty-four-hour period; or

16 (b) thirty million dollars (\$30,000,000)
17 or more that shoots at least fifteen principal photography days
18 in New Mexico at a qualified production facility; provided that
19 a film production company in principal photography on or after
20 April 10, 2015 shall: 1) shoot at least ten of those days at a
21 sound stage that is a qualified production facility and the
22 remaining number of required days, if any, at a standing set
23 that is a qualified production facility; and 2) for each day of
24 the fifteen days, include industry crew working on the premises
25 of the facility for a minimum of eight hours within a twenty-

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1 four-hour period.

2 D. With respect to expenditures attributable to a
3 production for which the film production company receives a tax
4 credit pursuant to the federal new markets tax credit program,
5 the percentage to be applied in calculating the film production
6 tax credit is twenty percent.

7 E. A claim for film production tax credits shall be
8 filed as part of a return filed pursuant to the Income Tax Act
9 or the Corporate Income and Franchise Tax Act or an information
10 return filed by a pass-through entity. The date a credit claim
11 is received by the taxation and revenue department shall
12 determine the order that a credit claim is authorized for
13 payment by the department. Except as otherwise provided in
14 this section and Section 4 of this 2019 act, the aggregate
15 amount of claims for a credit provided by the Film Production
16 Tax Credit Act that may be authorized for payment in any fiscal
17 year is fifty million dollars (\$50,000,000) with respect to the
18 direct production expenditures or postproduction expenditures
19 made on film or commercial audiovisual products. A film
20 production company that submits a claim for a film production
21 tax credit that is unable to receive the tax credit because the
22 claims for the fiscal year exceed the limitation in this
23 subsection shall be placed for the subsequent fiscal year at
24 the front of a queue of credit claimants submitting claims in
25 the subsequent fiscal year in the order of the date on which

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1 the credit was authorized for payment.

2 F. If, in fiscal years 2013 through 2015, the
3 aggregate amount in each fiscal year of the film production tax
4 credit claims authorized for payment is less than fifty million
5 dollars (\$50,000,000), then the difference in that fiscal year
6 or ten million dollars (\$10,000,000), whichever is less, shall
7 be added to the aggregate amount of the film production tax
8 credit claims that may be authorized for payment pursuant to
9 Subsection E of this section in the immediately following
10 fiscal year.

11 G. Except as otherwise provided in this section and
12 Section 4 of this 2019 act, credit claims authorized for
13 payment pursuant to the Film Production Tax Credit Act shall be
14 paid pursuant to provisions of the Tax Administration Act to
15 the taxpayer as follows:

16 (1) a credit claim amount of less than two
17 million dollars (\$2,000,000) per taxable year shall be paid
18 immediately upon authorization for payment of the credit claim;

19 (2) a credit claim amount of two million
20 dollars (\$2,000,000) or more but less than five million dollars
21 (\$5,000,000) per taxable year shall be divided into two equal
22 payments, with the first payment to be made immediately upon
23 authorization of the payment of the credit claim and the second
24 payment to be made twelve months following the date of the
25 first payment; and

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1 (3) a credit claim amount of five million
2 dollars (\$5,000,000) or more per taxable year shall be divided
3 into three equal payments, with the first payment to be made
4 immediately upon authorization of payment of the credit claim,
5 the second payment to be made twelve months following the date
6 of the first payment and the third payment to be made twenty-
7 four months following the date of the first payment.

8 H. For a fiscal year in which the amount of total
9 credit claims authorized for payment is less than the aggregate
10 amount of credit claims that may be authorized for payment
11 pursuant to this section, the next scheduled payments for
12 credit claims authorized for payment pursuant to Subsection G
13 of this section shall be accelerated for payment for that
14 fiscal year and shall be paid to a taxpayer pursuant to the Tax
15 Administration Act and in the order in which outstanding
16 payments are scheduled in the queue established pursuant to
17 Subsections E and G of this section; provided that the total
18 credit claims authorized for payment shall not exceed the
19 aggregate amount of credit claims that may be authorized for
20 payment pursuant to this section. If a partial payment is made
21 pursuant to this subsection, the difference owed shall retain
22 its original position in the queue.

23 I. Any amount of a credit claim that is carried
24 forward pursuant to Subsection G of this section shall be
25 subject to the limit on the aggregate amount of credit claims

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1 that may be authorized for payment pursuant to Subsections E
2 and F of this section in the fiscal year in which that amount
3 is paid.

4 J. A credit claim shall only be considered received
5 by the taxation and revenue department if the credit claim is
6 made on a complete return filed after the close of the taxable
7 year. All direct production expenditures and postproduction
8 expenditures incurred during the taxable year by a film
9 production company shall be submitted as part of the same
10 income tax return and paid pursuant to this section. A credit
11 claim shall not be divided and submitted with multiple returns
12 or in multiple years.

13 K. For purposes of determining the payment of
14 credit claims pursuant to this section, the secretary of
15 taxation and revenue may require that credit claims of
16 affiliated persons be combined into one claim if necessary to
17 accurately reflect closely integrated activities of affiliated
18 persons.

19 L. The film production tax credit shall not be
20 claimed with respect to direct production expenditures or
21 postproduction expenditures for which the film production
22 company has delivered a nontaxable transaction certificate
23 pursuant to Section 7-9-86 NMSA 1978.

24 M. A production for which the film production tax
25 credit is claimed pursuant to Paragraph (1) of Subsection B of

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1 this section shall contain an acknowledgment to the state of
2 New Mexico in the end screen credits that the production was
3 filmed in New Mexico, and a state logo provided by the division
4 shall be included and embedded in the end screen credits of
5 long-form narrative film productions and television episodes,
6 unless otherwise agreed upon in writing by the film production
7 company and the division.

8 N. To be eligible for the film production tax
9 credit, a film production company shall submit to the division
10 information required by the division to demonstrate conformity
11 with the requirements of the Film Production Tax Credit Act,
12 including detailed information on each direct production
13 expenditure and each postproduction expenditure. A film
14 production company shall make reasonable efforts, as determined
15 by the division, to contract with a specialized vendor that
16 provides goods and services, inventory or services directly
17 related to that vendor's ordinary course of business. A film
18 production company shall provide to the division a projection
19 of the film production tax credit claim the film production
20 company plans to submit in the fiscal year. In addition, the
21 film production company shall agree in writing:

22 (1) to pay all obligations the film production
23 company has incurred in New Mexico;

24 (2) to post a notice at completion of
25 principal photography on the [~~web site~~] website of the division

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1 that:

2 (a) contains production company
3 information, including the name of the production, the address
4 of the production company and contact information that includes
5 a working phone number, fax number and email address for both
6 the local production office and the permanent production office
7 to notify the public of the need to file creditor claims
8 against the film production company; and

9 (b) remains posted on the [~~web site~~]
10 website until all financial obligations incurred in the state
11 by the film production company have been paid;

12 (3) that outstanding obligations are not
13 waived should a creditor fail to file;

14 (4) to delay filing of a claim for the film
15 production tax credit until the division delivers written
16 notification to the taxation and revenue department that the
17 film production company has fulfilled all requirements for the
18 credit; and

19 (5) to submit a completed application for the
20 film production tax credit and supporting documentation to the
21 division within one year of making the final expenditures in
22 New Mexico that were incurred for the registered project and
23 that are included in the credit claim.

24 0. The division shall determine the eligibility of
25 the company and shall report this information to the taxation

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1 and revenue department in a manner and at times the economic
2 development department and the taxation and revenue department
3 shall agree upon. The division shall also post on its [~~web~~
4 ~~site~~] website all information provided by the film production
5 company that does not reveal revenue, income or other
6 information that may jeopardize the confidentiality of income
7 tax returns, including that the division shall report quarterly
8 the projected amount of credit claims for the fiscal year.

9 P. To provide guidance to film production companies
10 regarding the amount of credit capacity remaining in the fiscal
11 year, the taxation and revenue department shall post monthly on
12 that department's [~~web-site~~] website the aggregate amount of
13 credits claimed and processed for the fiscal year.

14 Q. To receive a film production tax credit, a film
15 production company shall apply to the taxation and revenue
16 department on forms and in the manner the department may
17 prescribe. The application shall include a certification of
18 the amount of direct production expenditures or postproduction
19 expenditures made in New Mexico with respect to the film
20 production for which the film production company is seeking the
21 film production tax credit; provided that for the film
22 production tax credit, the application shall be submitted
23 within one year of the date of the last direct production
24 expenditure in New Mexico or the last postproduction
25 expenditure in New Mexico. If the amount of the requested tax

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1 credit exceeds five million dollars (\$5,000,000), the
2 application shall also include the results of an audit,
3 conducted by a certified public accountant licensed to practice
4 in New Mexico, verifying that the expenditures have been made
5 in compliance with the requirements of this section. If the
6 requirements of this section have been complied with, subject
7 to the provisions of Subsection E of this section, the taxation
8 and revenue department shall approve the film production tax
9 credit and issue a document granting the tax credit.

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

17 S. That amount of a film production tax credit for
18 total payments as applied to direct production expenditures for
19 the services of performing artists shall not exceed five
20 million dollars (\$5,000,000) for services rendered by
21 nonresident performing artists and featured resident principal
22 performing artists in a production. This limitation shall not
23 apply to the services of background artists and resident
24 performing artists who are not cast in industry standard
25 featured principal performer roles.

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1 T. As used in this section, "direct production
2 expenditure":

3 (1) except as provided in Paragraph (2) of
4 this subsection, means a transaction that is subject to
5 taxation in New Mexico, including:

6 (a) payment of wages, fringe benefits or
7 fees for talent, management or labor to a person who is a New
8 Mexico resident;

9 (b) payment for wages and per diem for a
10 performing artist who is not a New Mexico resident and who is
11 directly employed by the film production company; provided that
12 the film production company deducts and remits, or causes to be
13 deducted and remitted, income tax from the first day of
14 services rendered in New Mexico at the maximum rate pursuant to
15 the Withholding Tax Act;

16 (c) payment to a personal services
17 business for the services of a performing artist if: 1) the
18 personal services business pays gross receipts tax in New
19 Mexico on the portion of those payments qualifying for the tax
20 credit; and 2) the film production company deducts and remits,
21 or causes to be deducted and remitted, income tax at the
22 maximum rate in New Mexico pursuant to Subsection H of Section
23 7-3A-3 NMSA 1978 on the portion of those payments qualifying
24 for the tax credit paid to a personal services business where
25 the performing artist is a full or part owner of that business

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1 or subcontracts with a personal services business where the
2 performing artist is a full or part owner of that business; and

3 (d) any of the following provided by a
4 vendor: 1) the story and scenario to be used for a film; 2)
5 set construction and operations, wardrobe, accessories and
6 related services; 3) photography, sound synchronization,
7 lighting and related services; 4) editing and related services;
8 5) rental of facilities and equipment; 6) leasing of vehicles,
9 not including the chartering of aircraft for out-of-state
10 transportation; however, New Mexico-based chartered aircraft
11 for in-state transportation directly attributable to the
12 production shall be considered a direct production expenditure;
13 provided that only the first one hundred dollars (\$100) of the
14 daily expense of leasing a vehicle for passenger transportation
15 on roadways in the state may be claimed as a direct production
16 expenditure; 7) food or lodging; provided that only the first
17 one hundred fifty dollars (\$150) of lodging per individual per
18 day is eligible to be claimed as a direct production
19 expenditure; 8) commercial airfare if purchased through a New
20 Mexico-based travel agency or travel company for travel to and
21 from New Mexico or within New Mexico that is directly
22 attributable to the production; 9) insurance coverage and
23 bonding if purchased through a New Mexico-based insurance
24 agent, broker or bonding agent; 10) services for an external
25 audit upon submission of an application for a film production

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1 tax credit by an accounting firm that submits the application
2 pursuant to this section; and 11) other direct costs of
3 producing a film in accordance with generally accepted
4 entertainment industry practice; and

5 (2) does not include an expenditure for:

6 (a) a gift with a value greater than
7 twenty-five dollars (\$25.00);

8 (b) artwork or jewelry, except that a
9 work of art or a piece of jewelry may be a direct production
10 expenditure if: 1) it is used in the film production; and 2)
11 the expenditure is less than two thousand five hundred dollars
12 (\$2,500);

13 (c) entertainment, amusement or
14 recreation;

15 (d) subcontracted goods or services
16 provided by a vendor when subcontractors are not subject to
17 state taxation, such as equipment and locations provided by the
18 military, government and religious organizations; or

19 (e) a service provided by a person who
20 is not a New Mexico resident and employed in an industry crew
21 position, excluding a performing artist, where it is the
22 standard entertainment industry practice for the film
23 production company to employ a person for that industry crew
24 position, except when the person who is not a New Mexico
25 resident is hired or subcontracted by a vendor; and when the

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1 film production company, as determined by the division and when
2 applicable in consultation with industry, provides: 1)
3 reasonable efforts to hire resident crew; and 2) financial or
4 promotional contributions toward education or ~~[work-force]~~
5 workforce development efforts in New Mexico, including at least
6 one of the following: a payment to a New Mexico public
7 education institution that administers at least one industry-
8 recognized film or multimedia program, as determined by the
9 division, in an amount equal to two and one-half percent of
10 payments made to nonresidents in approved positions employed by
11 the vendor; promotion of the New Mexico film industry by
12 directors, actors or executive producers affiliated with the
13 production company's project through social media that is
14 managed by the state; radio interviews facilitated by the
15 division; enhanced screen credit acknowledgments; or related
16 events that are facilitated, conducted or sponsored by the
17 division.

18 U. As used in this section, "film production
19 company" means a person that produces one or more films or any
20 part of a film and that commences principal photography prior
21 to January 1, 2016.

22 V. As used in this section, "vendor" means a person
23 who sells or leases goods or services that are related to
24 standard industry craft inventory, who has a physical presence
25 in New Mexico and is subject to gross receipts tax pursuant to

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1 the Gross Receipts and Compensating Tax Act and income tax
2 pursuant to the Income Tax Act or corporate income tax pursuant
3 to the Corporate Income and Franchise Tax Act but excludes a
4 personal services business and services provided by
5 nonresidents hired or subcontracted if the tasks and
6 responsibilities are associated with:

7 (1) the standard industry job position of:
8 (a) a director;
9 (b) a writer;
10 (c) a producer;
11 (d) an associate producer;
12 (e) a co-producer;
13 (f) an executive producer;
14 (g) a production supervisor;
15 (h) a director of photography;
16 (i) a motion picture driver whose sole
17 responsibility is driving;
18 (j) a production or personal assistant;
19 (k) a designer;
20 (l) a still photographer; or
21 (m) a carpenter and utility technician
22 at an entry level; and

23 (2) nonstandard industry job positions and
24 personal support services."

25 SECTION 2. Section 7-2F-6 NMSA 1978 (being Laws 2015,

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1 Chapter 143, Section 5, as amended) is amended to read:

2 "7-2F-6. FILM AND TELEVISION TAX CREDIT--FILM PRODUCTION
3 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER
4 JANUARY 1, 2016.--

5 A. The tax credit created by this section may be
6 referred to as the "film and television tax credit".

7 B. An eligible film production company may apply
8 for, and the taxation and revenue department may allow, subject
9 to the limitation in Section 7-2F-12 NMSA 1978, except as
10 provided in Section 4 of this 2019 act, a tax credit in an
11 amount equal to twenty-five percent of:

12 (1) direct production expenditures made in New
13 Mexico that:

14 (a) are directly attributable to the
15 production in New Mexico of a film or commercial audiovisual
16 product;

17 (b) are subject to taxation by the state
18 of New Mexico;

19 (c) exclude direct production
20 expenditures for which another taxpayer claims the film and
21 television tax credit; and

22 (d) do not exceed the usual and
23 customary cost of the goods or services acquired when purchased
24 by unrelated parties. The secretary of taxation and revenue
25 may determine the value of the goods or services for purposes

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1 of this section when the buyer and seller are affiliated
2 persons or the sale or purchase is not an arm's length
3 transaction; and

4 (2) postproduction expenditures made in New
5 Mexico that:

6 (a) are directly attributable to the
7 production of a commercial film or audiovisual product;

8 (b) are for postproduction services
9 performed in New Mexico;

10 (c) are subject to taxation by the state
11 of New Mexico;

12 (d) exclude postproduction expenditures
13 for which another taxpayer claims the film and television tax
14 credit; and

15 (e) do not exceed the usual and
16 customary cost of the goods or services acquired when purchased
17 by unrelated parties. The secretary of taxation and revenue
18 may determine the value of the goods or services for purposes
19 of this section when the buyer and seller are affiliated
20 persons or the sale or purchase is not an arm's length
21 transaction.

22 C. With respect to expenditures attributable to a
23 production for which the film production company receives a tax
24 credit pursuant to the federal new markets tax credit program,
25 the percentage to be applied in calculating the film and

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1 television tax credit is twenty percent.

2 D. The film and television tax credit shall not be
3 claimed with respect to direct production expenditures or
4 postproduction expenditures for which the film production
5 company has delivered a nontaxable transaction certificate
6 pursuant to Section 7-9-86 NMSA 1978.

7 E. A production for which the film and television
8 tax credit is claimed pursuant to Paragraph (1) of Subsection B
9 of this section shall contain an acknowledgment to the state of
10 New Mexico in the end screen credits that the production was
11 filmed in New Mexico, and a state logo provided by the division
12 shall be included and embedded in the end screen credits of
13 long-form narrative film productions and television episodes,
14 unless otherwise agreed upon in writing by the film production
15 company and the division.

16 F. To be eligible for the film and television tax
17 credit, a film production company shall submit to the division
18 information required by the division to demonstrate conformity
19 with the requirements of the Film Production Tax Credit Act,
20 including detailed information on each direct production
21 expenditure and each postproduction expenditure. A film
22 production company shall provide to the division a projection
23 of the film and television tax credit claim the film production
24 company plans to submit in the fiscal year. In addition, the
25 film production company shall agree in writing:

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1 (1) to pay all obligations the film production
2 company has incurred in New Mexico;

3 (2) to post a notice at completion of
4 principal photography on the website of the division that:

5 (a) contains production company
6 information, including the name of the production, the address
7 of the production company and contact information that includes
8 a working phone number, fax number and email address for both
9 the local production office and the permanent production office
10 to notify the public of the need to file creditor claims
11 against the film production company; and

12 (b) remains posted on the website until
13 all financial obligations incurred in the state by the film
14 production company have been paid;

15 (3) that outstanding obligations are not
16 waived should a creditor fail to file;

17 (4) to delay filing of a claim for the film
18 and television tax credit until the division delivers written
19 notification to the taxation and revenue department that the
20 film production company has fulfilled all requirements for the
21 credit; and

22 (5) to submit a completed application for the
23 film and television tax credit and supporting documentation to
24 the division within one year of the close of the film
25 production company's taxable year in which the expenditures in

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1 New Mexico were incurred for the registered project and that
2 are included in the credit claim.

3 G. The division shall determine the eligibility of
4 the company and shall report this information to the taxation
5 and revenue department in a manner and at times the economic
6 development department and the taxation and revenue department
7 shall agree upon. The division shall also post on its website
8 all information provided by the film production company that
9 does not reveal revenue, income or other information that may
10 jeopardize the confidentiality of income tax returns, including
11 that the division shall report quarterly the projected amount
12 of credit claims for the fiscal year.

13 H. To provide guidance to film production companies
14 regarding the amount of credit capacity remaining in the fiscal
15 year, the taxation and revenue department shall post monthly on
16 that department's website the aggregate amount of credits
17 claimed and processed for the fiscal year.

18 I. To receive a film and television tax credit, a
19 film production company shall apply to the taxation and revenue
20 department on forms and in the manner the department may
21 prescribe. The application shall include a certification of
22 the amount of direct production expenditures or postproduction
23 expenditures made in New Mexico with respect to the film
24 production for which the film production company is seeking the
25 film and television tax credit; provided that for the film and

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1 television tax credit, the application shall be submitted
2 within one year of the date of the last direct production
3 expenditure in New Mexico or the last postproduction
4 expenditure in New Mexico incurred within the film production
5 company's taxable year. If the amount of the requested tax
6 credit exceeds five million dollars (\$5,000,000), the
7 application shall also include the results of an audit,
8 conducted by a certified public accountant licensed to practice
9 in New Mexico, verifying that the expenditures have been made
10 in compliance with the requirements of this section. If the
11 requirements of this section have been complied with, subject
12 to the provisions of Section 7-2F-12 NMSA 1978, the taxation
13 and revenue department shall approve the film and television
14 tax credit and issue a document granting the tax credit.

15 J. The film production company may apply all or a
16 portion of the film and television tax credit granted against
17 personal income tax liability or corporate income tax
18 liability. If the amount of the film and television tax credit
19 claimed exceeds the film production company's tax liability for
20 the taxable year in which the credit is being claimed, the
21 excess shall be refunded."

22 SECTION 3. Section 7-2F-12 NMSA 1978 (being Laws 2015,
23 Chapter 143, Section 11) is amended to read:

24 "7-2F-12. CREDIT CLAIMS--AGGREGATE AMOUNT OF CLAIMS
25 ALLOWED.--

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1 A. A claim for a film and television tax credit
2 shall be filed as part of a return filed pursuant to the Income
3 Tax Act or the Corporate Income and Franchise Tax Act or an
4 information return filed by a pass-through entity. The date a
5 credit claim is received by the department shall determine the
6 order that a credit claim is authorized for payment by the
7 department. Except as provided in Section 4 of this 2019 act,
8 the aggregate amount of claims for a credit provided by the
9 Film Production Tax Credit Act that may be authorized for
10 payment in any fiscal year is fifty million dollars
11 (\$50,000,000) with respect to the direct production
12 expenditures or postproduction expenditures made on film or
13 commercial audiovisual products. A film production company
14 that submits a claim for a film and television tax credit that
15 is unable to receive the tax credit because the claims for the
16 fiscal year exceed the limitation in this subsection shall be
17 placed for the subsequent fiscal year at the front of a queue
18 of credit claimants submitting claims in the subsequent fiscal
19 year in the order of the date on which the credit was
20 authorized for payment.

21 B. Except as otherwise provided in this section and
22 Section 4 of this 2019 act, credit claims authorized for
23 payment pursuant to the Film Production Tax Credit Act shall be
24 paid pursuant to provisions of the Tax Administration Act to
25 the taxpayer as follows:

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underscoring material = new
~~[bracketed material] = delete~~

1 (1) a credit claim amount of less than two
2 million dollars (\$2,000,000) per taxable year shall be paid
3 immediately upon authorization for payment of the credit claim;

4 (2) a credit claim amount of two million
5 dollars (\$2,000,000) or more but less than five million dollars
6 (\$5,000,000) per taxable year shall be divided into two equal
7 payments, with the first payment to be made immediately upon
8 authorization of the payment of the credit claim and the second
9 payment to be made twelve months following the date of the
10 first payment; and

11 (3) a credit claim amount of five million
12 dollars (\$5,000,000) or more per taxable year shall be divided
13 into three equal payments, with the first payment to be made
14 immediately upon authorization of payment of the credit claim,
15 the second payment to be made twelve months following the date
16 of the first payment and the third payment to be made twenty-
17 four months following the date of the first payment.

18 C. For a fiscal year in which the amount of total
19 credit claims authorized for payment is less than the aggregate
20 amount of credit claims that may be authorized for payment
21 pursuant to this section, the next scheduled payments for
22 credit claims authorized for payment pursuant to Subsection B
23 of this section shall be accelerated for payment for that
24 fiscal year and shall be paid to a taxpayer pursuant to the Tax
25 Administration Act and in the order in which outstanding

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1 payments are scheduled in the queue established pursuant to
2 Subsections A and B of this section; provided that the total
3 credit claims authorized for payment shall not exceed the
4 aggregate amount of credit claims that may be authorized for
5 payment pursuant to this section. If a partial payment is made
6 pursuant to this subsection, the difference owed shall retain
7 its original position in the queue.

8 D. Any amount of a credit claim that is carried
9 forward pursuant to Subsection B of this section shall be
10 subject to the limit on the aggregate amount of credit claims
11 that may be authorized for payment pursuant to Subsection A of
12 this section in the fiscal year in which that amount is paid.

13 E. A credit claim shall only be considered received
14 by the department if the credit claim is made on a complete
15 return filed after the close of the taxable year. All direct
16 production expenditures and postproduction expenditures
17 incurred during the taxable year by a film production company
18 shall be submitted as part of the same income tax return and
19 paid pursuant to this section. A credit claim shall not be
20 divided and submitted with multiple returns or in multiple
21 years.

22 F. For purposes of determining the payment of
23 credit claims pursuant to this section, the secretary of
24 taxation and revenue may require that credit claims of
25 affiliated persons be combined into one claim if necessary to

1 accurately reflect closely integrated activities of affiliated
2 persons."

3 SECTION 4. TEMPORARY PROVISION--AUTHORIZATION TO PAY
4 APPROVED CREDITS PURSUANT TO THE FILM PRODUCTION TAX CREDIT ACT
5 AT A DISCOUNT.--A claim for a tax credit approved by the
6 taxation and revenue department pursuant to the Film Production
7 Tax Credit Act:

8 A. prior to the effective date of this 2019 act,
9 shall be paid in fiscal year 2019; and

10 B. on or after the effective date of this 2019 act
11 but prior to July 1, 2020, shall be paid in the fiscal year in
12 which the credit is approved; provided that the claim meets the
13 requirements of the Film Production Tax Credit Act.