

1 SENATE BILL 451

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

3 INTRODUCED BY

4 Clemente Sanchez

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10 AN ACT

11 RELATING TO THE FILM PRODUCTION TAX CREDIT ACT; PROVIDING THAT
12 IF A FILM PRODUCTION COMPANY CLAIMS A FILM AND TELEVISION TAX
13 CREDIT AFTER THE AGGREGATE CAP IS MET IN A FISCAL YEAR FOR A
14 FILM OR AUDIOVISUAL PRODUCT THAT COMMENCES PRINCIPAL
15 PHOTOGRAPHY ON OR AFTER JANUARY 1, 2020, THE CLAIM SHALL NOT BE
16 ELIGIBLE FOR PAYMENT FOR THAT FISCAL YEAR.

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

19 SECTION 1. Section 7-2F-12 NMSA 1978 (being Laws 2015,
20 Chapter 143, Section 11) is amended to read:

21 "7-2F-12. CREDIT CLAIMS--AGGREGATE AMOUNT OF CLAIMS
22 ALLOWED FOR FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL
23 PHOTOGRAPHY PRIOR TO JANUARY 1, 2020.--

24 A. For a film production company that commences
25 principal photography for a film or audiovisual product prior

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1 to January 1, 2020, a claim for a film and television tax
2 credit shall be filed as part of a return filed pursuant to the
3 Income Tax Act or the Corporate Income and Franchise Tax Act or
4 an information return filed by a pass-through entity. The date
5 a credit claim is received by the taxation and revenue
6 department shall determine the order that a credit claim is
7 authorized for payment by the department. The aggregate amount
8 of claims for a credit provided by the Film Production Tax
9 Credit Act that may be authorized for payment in any fiscal
10 year is fifty million dollars (\$50,000,000) with respect to the
11 direct production expenditures or postproduction expenditures
12 made on film or commercial audiovisual products. A film
13 production company that submits a claim for a film and
14 television tax credit that is unable to receive the tax credit
15 because the claims for the fiscal year exceed the limitation in
16 this subsection shall be placed for the subsequent fiscal year
17 at the front of a queue of credit claimants submitting claims
18 in the subsequent fiscal year in the order of the date on which
19 the credit was authorized for payment.

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

24 (1) a credit claim amount of less than two
25 million dollars (\$2,000,000) per taxable year shall be paid

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1 immediately upon authorization for payment of the credit claim;

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

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

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

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1 credit claims authorized for payment shall not exceed the
2 aggregate amount of credit claims that may be authorized for
3 payment pursuant to this section. If a partial payment is made
4 pursuant to this subsection, the difference owed shall retain
5 its original position in the queue.

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

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

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

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1 SECTION 2. A new Section 7-2F-12.1 NMSA 1978 is enacted
2 to read:

3 "7-2F-12.1. [NEW MATERIAL] CREDIT CLAIMS--AGGREGATE
4 AMOUNT OF CLAIMS ALLOWED FOR FILM PRODUCTION COMPANIES THAT
5 COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER JANUARY 1, 2020.--

6 A. For a film production company that commences
7 principal photography for a film or audiovisual product on or
8 after January 1, 2020, a claim for a film and television tax
9 credit shall be filed as part of a return filed pursuant to the
10 Income Tax Act or the Corporate Income and Franchise Tax Act or
11 an information return filed by a pass-through entity. The date
12 a credit claim is received by the taxation and revenue
13 department shall determine the order that a credit claim is
14 authorized for payment by the department. The aggregate amount
15 of claims for a credit provided by the Film Production Tax
16 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. If a film
20 production company submits a claim for a film and television
21 tax credit and the limitation in this subsection has been met
22 for the fiscal year, the claim shall not be eligible for
23 payment for that fiscal year; except that a claim received
24 before the limitation is met shall be allowed in an amount that
25 will not exceed the limitation.

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