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AN ACT
RELATING TO TAXATION; AMENDING THE FILM PRODUCTION TAX CREDIT
ACT; LIMITING CERTAIN ADDITIONAL CREDITS TO PRODUCTIONS THAT
COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JULY 1, 2019;
CREATING THE NEW FILM PRODUCTION TAX CREDIT FOR PRODUCTIONS
THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER JULY 1, 2019;
INCREASING THE AMOUNT OF CREDIT THAT MAY BE CLAIMED PER
TAXABLE YEAR; ALLOWING ADDITIONAL AMOUNTS FOR TELEVISION
PILOTS AND SERIES AND EXPENDITURES MADE IN CERTAIN AREAS OF
THE STATE; CREATING THE NONRESIDENT BELOW-THE-LINE CREW
CREDIT; INCREASING THE AGGREGATE CAP; PROVIDING THAT CERTAIN
EXPENDITURES BY CERTAIN FILM PRODUCTION COMPANIES SHALL NOT
BE SUBJECT TO THE AGGREGATE CAP; PROHIBITING THE NEW MEXICO
FILM DIVISION OF THE ECONOMIC DEVELOPMENT DEPARTMENT FROM
CERTIFYING EXPENDITURE BUDGETS THAT WOULD EXCEED ONE HUNDRED
MILLION DOLLARS (\$100,000,000) IN EXCESS OF THE AGGREGATE
CAP; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO PAY A
CERTAIN AMOUNT OF PREVIOUSLY APPROVED CREDITS; AMENDING AND
ENACTING SECTIONS OF THE FILM PRODUCTION TAX CREDIT ACT;
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
SECTION 1. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
Chapter 243, Section 10, as amended) is amended to read:
"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER

1 STATE AGENCIES.--An employee of the department may reveal to:

2 A. a committee of the legislature for a valid
3 legislative purpose, return information concerning any tax or
4 fee imposed pursuant to the Cigarette Tax Act;

5 B. the attorney general, return information
6 acquired pursuant to the Cigarette Tax Act for purposes of
7 Section 6-4-13 NMSA 1978 and the master settlement agreement
8 defined in Section 6-4-12 NMSA 1978;

9 C. the commissioner of public lands, return
10 information for use in auditing that pertains to rentals,
11 royalties, fees and other payments due the state under land
12 sale, land lease or other land use contracts;

13 D. the secretary of human services or the
14 secretary's delegate under a written agreement with the
15 department, the last known address with date of all names
16 certified to the department as being absent parents of
17 children receiving public financial assistance, but only for
18 the purpose of enforcing the support liability of the absent
19 parents by the child support enforcement division or any
20 successor organizational unit;

21 E. the department of information technology, by
22 electronic media, a database updated quarterly that contains
23 the names, addresses, county of address and taxpayer
24 identification numbers of New Mexico personal income tax
25 filers, but only for the purpose of producing the random jury

1 list for the selection of petit or grand jurors for the state
2 courts pursuant to Section 38-5-3 NMSA 1978;

3 F. the state courts, the random jury lists
4 produced by the department of information technology under
5 Subsection E of this section;

6 G. the director of the New Mexico department of
7 agriculture or the director's authorized representative, upon
8 request of the director or representative, the names and
9 addresses of all gasoline or special fuel distributors,
10 wholesalers and retailers;

11 H. the public regulation commission, return
12 information with respect to the Corporate Income and
13 Franchise Tax Act required to enable the commission to carry
14 out its duties;

15 I. the state racing commission, return information
16 with respect to the state, municipal and county gross
17 receipts taxes paid by racetracks;

18 J. the gaming control board, tax returns of
19 license applicants and their affiliates as provided in
20 Subsection E of Section 60-2E-14 NMSA 1978;

21 K. the director of the workers' compensation
22 administration or to the director's representatives
23 authorized for this purpose, return information to facilitate
24 the identification of taxpayers that are delinquent or
25 noncompliant in payment of fees required by Section 52-1-9.1

1 or 52-5-19 NMSA 1978;

2 L. the secretary of workforce solutions or the
3 secretary's delegate, return information for use in
4 enforcement of unemployment insurance collections pursuant to
5 the terms of a written reciprocal agreement entered into by
6 the department with the secretary of workforce solutions for
7 exchange of information;

8 M. the New Mexico finance authority, information
9 with respect to the amount of municipal and county gross
10 receipts taxes collected by municipalities and counties
11 pursuant to any local option municipal or county gross
12 receipts taxes imposed, and information with respect to the
13 amount of governmental gross receipts taxes paid by every
14 agency, institution, instrumentality or political subdivision
15 of the state pursuant to Section 7-9-4.3 NMSA 1978;

16 N. the secretary of human services or the
17 secretary's delegate; provided that a person who receives the
18 confidential return information on behalf of the human
19 services department shall not reveal the information and
20 shall be subject to the penalties in Section 7-1-76 NMSA 1978
21 if the person fails to maintain the confidentiality required:

22 (1) that return information needed for
23 reports required to be made to the federal government
24 concerning the use of federal funds for low-income working
25 families; and

1 (2) the names and addresses of low-income
2 taxpayers for the limited purpose of outreach to those
3 taxpayers; provided that the human services department shall
4 pay the department for expenses incurred by the department to
5 derive the information requested by the human services
6 department if the information requested is not readily
7 available in reports for which the department's information
8 systems are programmed;

9 O. the secretary of finance and administration or
10 the secretary's delegate, aggregate return information
11 concerning credits pursuant to the Film Production Tax Credit
12 Act; and

13 P. the secretary of economic development or the
14 secretary's delegate, aggregate return information concerning
15 a credit pursuant to the Film Production Tax Credit Act."

16 SECTION 2. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
17 Chapter 243, Section 10, as amended by Section 1 of this act)
18 is repealed and a new Section 7-1-8.8 NMSA 1978 is enacted to
19 read:

20 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER
21 STATE AGENCIES.--An employee of the department may reveal to:

22 A. a committee of the legislature for a valid
23 legislative purpose, return information concerning any tax or
24 fee imposed pursuant to the Cigarette Tax Act;

25 B. the attorney general, return information

1 acquired pursuant to the Cigarette Tax Act for purposes of
2 Section 6-4-13 NMSA 1978 and the master settlement agreement
3 defined in Section 6-4-12 NMSA 1978;

4 C. the commissioner of public lands, return
5 information for use in auditing that pertains to rentals,
6 royalties, fees and other payments due the state under land
7 sale, land lease or other land use contracts;

8 D. the secretary of human services or the
9 secretary's delegate under a written agreement with the
10 department, the last known address with date of all names
11 certified to the department as being absent parents of
12 children receiving public financial assistance, but only for
13 the purpose of enforcing the support liability of the absent
14 parents by the child support enforcement division or any
15 successor organizational unit;

16 E. the department of information technology, by
17 electronic media, a database updated quarterly that contains
18 the names, addresses, county of address and taxpayer
19 identification numbers of New Mexico personal income tax
20 filers, but only for the purpose of producing the random jury
21 list for the selection of petit or grand jurors for the state
22 courts pursuant to Section 38-5-3 NMSA 1978;

23 F. the state courts, the random jury lists
24 produced by the department of information technology under
25 Subsection E of this section;

1 G. the director of the New Mexico department of
2 agriculture or the director's authorized representative, upon
3 request of the director or representative, the names and
4 addresses of all gasoline or special fuel distributors,
5 wholesalers and retailers;

6 H. the public regulation commission, return
7 information with respect to the Corporate Income and
8 Franchise Tax Act required to enable the commission to carry
9 out its duties;

10 I. the state racing commission, return information
11 with respect to the state, municipal and county gross
12 receipts taxes paid by racetracks;

13 J. the gaming control board, tax returns of
14 license applicants and their affiliates as provided in
15 Subsection E of Section 60-2E-14 NMSA 1978;

16 K. the director of the workers' compensation
17 administration or to the director's representatives
18 authorized for this purpose, return information to facilitate
19 the identification of taxpayers that are delinquent or
20 noncompliant in payment of fees required by Section 52-1-9.1
21 or 52-5-19 NMSA 1978;

22 L. the secretary of workforce solutions or the
23 secretary's delegate, return information for use in
24 enforcement of unemployment insurance collections pursuant to
25 the terms of a written reciprocal agreement entered into by

1 the department with the secretary of workforce solutions for
2 exchange of information;

3 M. the New Mexico finance authority, information
4 with respect to the amount of municipal and county gross
5 receipts taxes collected by municipalities and counties
6 pursuant to any local option municipal or county gross
7 receipts taxes imposed, and information with respect to the
8 amount of governmental gross receipts taxes paid by every
9 agency, institution, instrumentality or political subdivision
10 of the state pursuant to Section 7-9-4.3 NMSA 1978;

11 N. the secretary of human services or the
12 secretary's delegate; provided that a person who receives the
13 confidential return information on behalf of the human
14 services department shall not reveal the information and
15 shall be subject to the penalties in Section 7-1-76 NMSA 1978
16 if the person fails to maintain the confidentiality required:

17 (1) that return information needed for
18 reports required to be made to the federal government
19 concerning the use of federal funds for low-income working
20 families; and

21 (2) the names and addresses of low-income
22 taxpayers for the limited purpose of outreach to those
23 taxpayers; provided that the human services department shall
24 pay the department for expenses incurred by the department to
25 derive the information requested by the human services

1 department if the information requested is not readily
2 available in reports for which the department's information
3 systems are programmed;

4 O. the superintendent of insurance, return
5 information with respect to the premium tax and the health
6 insurance premium surtax;

7 P. the secretary of finance and administration or
8 the secretary's delegate, aggregate return information
9 concerning a credit pursuant to the Film Production Tax
10 Credit Act; and

11 Q. the secretary of economic development or the
12 secretary's delegate, aggregate return information concerning
13 a credit pursuant to the Film Production Tax Credit Act."

14 SECTION 3. Section 7-2F-1 NMSA 1978 (being Laws 2002,
15 Chapter 36, Section 1, as amended) is amended to read:

16 "7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION
17 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO
18 JANUARY 1, 2016.--

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

21 B. Except as otherwise provided in this section,
22 an eligible film production company may apply for, and the
23 taxation and revenue department may allow, subject to the
24 limitation in this section, a tax credit in an amount equal
25 to twenty-five percent of:

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

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

6 (b) are subject to taxation by the
7 state of New Mexico;

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

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

18 (2) postproduction expenditures made in
19 New Mexico that:

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

22 (b) are for services performed in
23 New Mexico;

24 (c) are subject to taxation by the
25 state of New Mexico;

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

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

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

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

21 (2) on a production with a total New Mexico
22 budget of the following amounts; provided that the
23 expenditures are directly attributable and paid to a New
24 Mexico resident who is hired as industry crew, or who is
25 hired as a producer, writer or director working directly with

1 the physical production and has filed a New Mexico income tax
2 return as a resident in the two previous taxable years:

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

14 (b) thirty million dollars
15 (\$30,000,000) or more that shoots at least fifteen principal
16 photography days in New Mexico at a qualified production
17 facility; provided that a film production company in
18 principal photography on or after April 10, 2015 shall: 1)
19 shoot at least ten of those days at a sound stage that is a
20 qualified production facility and the remaining number of
21 required days, if any, at a standing set that is a qualified
22 production facility; and 2) for each day of the fifteen days,
23 include industry crew working on the premises of the facility
24 for a minimum of eight hours within a twenty-four-hour
25 period.

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

6 E. A claim for film production tax credits shall
7 be filed as part of a return filed pursuant to the Income Tax
8 Act or the Corporate Income and Franchise Tax Act. The date
9 a credit claim is received by the taxation and revenue
10 department shall determine the order that a credit claim is
11 authorized for payment by the department.

12 F. Except as otherwise provided in this section
13 and Section 10 of this 2019 act, credit claims authorized for
14 payment pursuant to the Film Production Tax Credit Act shall
15 be paid pursuant to provisions of the Tax Administration Act
16 to the taxpayer as follows:

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

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

1 claim and the second payment to be made twelve months
2 following the date of the first payment; and

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

11 G. For a fiscal year in which the amount of total
12 credit claims authorized for payment is less than the
13 aggregate amount of credit claims that may be authorized for
14 payment pursuant to Section 7-2F-12 NMSA 1978, the next
15 scheduled payments for credit claims authorized for payment
16 pursuant to Subsection F of this section shall be accelerated
17 for payment for that fiscal year and shall be paid to a
18 taxpayer pursuant to the Tax Administration Act and in the
19 order in which outstanding payments are scheduled in the
20 queue established pursuant to Section 7-2F-12 NMSA 1978;
21 provided that the total credit claims authorized for payment
22 shall not exceed the aggregate amount of credit claims that
23 may be authorized for payment pursuant to this section. If a
24 partial payment is made pursuant to this subsection, the
25 difference owed shall retain its original position in the

1 queue.

2 H. Any amount of a credit claim that is carried
3 forward pursuant to Subsection F of this section shall be
4 subject to the limit on the aggregate amount of credit claims
5 that may be authorized for payment pursuant to Section
6 7-2F-12 NMSA 1978.

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

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

22 K. The film production tax credit shall not be
23 claimed with respect to direct production expenditures or
24 postproduction expenditures for which the film production
25 company has delivered a nontaxable transaction certificate

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

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

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

1 (1) to pay all obligations the film
2 production 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
7 address of the production company and contact information
8 that includes a working phone number, fax number and email
9 address for both the local production office and the
10 permanent production office to notify the public of the need
11 to file creditor claims against the film production company;
12 and

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

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

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

23 (5) to submit a completed application for
24 the film production tax credit and supporting documentation
25 to the division within one year of making the final

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

3 N. 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
7 department shall agree upon. The division shall also post on
8 its website all information provided by the film production
9 company that does not reveal revenue, income or other
10 information that may jeopardize the confidentiality of income
11 tax returns, including that the division shall report
12 quarterly the projected amount of credit claims for the
13 fiscal year.

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

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

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

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

22 R. That amount of a film production tax credit for
23 total payments as applied to direct production expenditures
24 for the services of performing artists shall not exceed five
25 million dollars (\$5,000,000) for services rendered by

1 nonresident performing artists and featured resident
2 principal performing artists in a production. This
3 limitation shall not apply to the services of background
4 artists and resident performing artists who are not cast in
5 industry standard featured principal performer roles.

6 S. As used in this section, "direct production
7 expenditure" means a transaction that is subject to taxation
8 in New Mexico:

9 (1) including an expenditure for:

10 (a) payment of wages, fringe benefits
11 or fees for talent, management or labor to a person who is a
12 New Mexico resident;

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

20 (c) payment to a personal services
21 business for the services of a performing artist if: 1) the
22 personal services business pays gross receipts tax in New
23 Mexico on the portion of those payments qualifying for the
24 tax credit; and 2) the film production company deducts and
25 remits, or causes to be deducted and remitted, income tax at

1 the maximum rate in New Mexico pursuant to Subsection H of
2 Section 7-3A-3 NMSA 1978 on the portion of those payments
3 qualifying for the tax credit paid to a personal services
4 business where the performing artist is a full or part owner
5 of that business or subcontracts with a personal services
6 business where the performing artist is a full or part owner
7 of that business; and

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

1 travel agency or travel company for travel to and from
2 New Mexico or within New Mexico that is directly attributable
3 to the production; 9) insurance coverage and bonding if
4 purchased through a New Mexico-based insurance agent, broker
5 or bonding agent; 10) services for an external audit upon
6 submission of an application for a film production tax credit
7 by an accounting firm that submits the application pursuant
8 to this section; and 11) other direct costs of producing a
9 film in accordance with generally accepted entertainment
10 industry practice; and

11 (2) does not include an expenditure for:

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

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

19 (c) entertainment, amusement or
20 recreation;

21 (d) subcontracted goods or services
22 provided by a vendor when subcontractors are not subject to
23 state taxation, such as equipment and locations provided by
24 the military, government and religious organizations; or

25 (e) a service provided by a person who

1 is not a New Mexico resident and employed in an industry crew
2 position, excluding a performing artist, where it is the
3 standard entertainment industry practice for the film
4 production company to employ a person for that industry crew
5 position, except when the person who is not a New Mexico
6 resident is hired or subcontracted by a vendor; and when the
7 film production company, as determined by the division and
8 when applicable in consultation with industry, provides:

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

23 T. As used in this section, "film production
24 company" means a person that produces one or more films or
25 any part of a film and that commences principal photography

1 prior to January 1, 2016.

2 U. As used in this section, "vendor" means a
3 person who sells or leases goods or services that are related
4 to standard industry craft inventory, who has a physical
5 presence in New Mexico and is subject to gross receipts tax
6 pursuant to the Gross Receipts and Compensating Tax Act and
7 income tax pursuant to the Income Tax Act or corporate income
8 tax pursuant to the Corporate Income and Franchise Tax Act
9 but excludes a personal services business and services
10 provided by nonresidents hired or subcontracted if the tasks
11 and responsibilities are associated with:

- 12 (1) the standard industry job position of:
- 13 (a) a director;
 - 14 (b) a writer;
 - 15 (c) a producer;
 - 16 (d) an associate producer;
 - 17 (e) a co-producer;
 - 18 (f) an executive producer;
 - 19 (g) a production supervisor;
 - 20 (h) a director of photography;
 - 21 (i) a motion picture driver whose sole
22 responsibility is driving;
 - 23 (j) a production or personal assistant;
 - 24 (k) a designer;
 - 25 (l) a still photographer; or

1 (m) a carpenter and utility technician
2 at an entry level; and

3 (2) nonstandard industry job positions and
4 personal support services."

5 SECTION 4. Section 7-2F-2 NMSA 1978 (being Laws 2003,
6 Chapter 127, Section 2, as amended) is amended to read:

7 "7-2F-2. DEFINITIONS.--As used in the Film Production
8 Tax Credit Act:

9 A. "affiliated person" means a person who directly
10 or indirectly owns or controls, is owned or controlled by or
11 is under common ownership or control with another person
12 through ownership of voting securities or other ownership
13 interests representing a majority of the total voting power
14 of the entity;

15 B. "background artist" means a person who is not a
16 performing artist but is a person of atmospheric business
17 whose work includes atmospheric noise, normal actions,
18 gestures and facial expressions of that person's assignment;
19 or a person of atmospheric business whose work includes
20 special abilities that are not stunts; or a substitute for
21 another actor, whether photographed as a double or acting as
22 a stand-in;

23 C. "below-the-line crew" means a person in a
24 position that is off-camera and who provides technical
25 services during the physical production of a film.

1 "Below-the-line crew" does not include a person who is a
2 writer, director, producer or background artist or performing
3 artist for the film;

4 D. "commercial audiovisual product" means a film
5 or a video game intended for commercial exploitation;

6 E. "direct production expenditure" means a
7 transaction that is subject to taxation in New Mexico and is
8 certified pursuant to Subsection A of 7-2F-12 NMSA 1978:

9 (1) including an expenditure for:

10 (a) payment of wages, fringe benefits
11 or fees for talent, management or labor to a person who is a
12 New Mexico resident;

13 (b) payment for standard industry craft
14 inventory when provided by a below-the-line crew that is a
15 New Mexico resident in addition to its below-the-line crew
16 services;

17 (c) payment for wages and per diem for
18 a performing artist who is not a New Mexico resident and who
19 is directly employed by the film production company; provided
20 that the film production company deducts and remits, or
21 causes to be deducted and remitted, income tax from the first
22 day of services rendered in New Mexico at the maximum rate
23 pursuant to the Withholding Tax Act;

24 (d) payment to a personal services
25 business for the services of a performing artist if: 1) the

1 personal services business pays gross receipts tax in
2 New Mexico on the portion of those payments qualifying for
3 the tax credit; and 2) the film production company deducts
4 and remits, or causes to be deducted and remitted, income tax
5 at the maximum rate in New Mexico pursuant to Subsection H of
6 Section 7-3A-3 NMSA 1978 on the portion of those payments
7 qualifying for the tax credit paid to a personal services
8 business where the performing artist is a full or part owner
9 of that business or subcontracts with a personal services
10 business where the performing artist is a full or part owner
11 of that business; and

12 (e) any of the following provided by a
13 vendor: 1) the story and scenario to be used for a film;
14 2) set construction and operations, wardrobe, accessories and
15 related services; 3) photography, sound synchronization,
16 lighting and related services; 4) editing and related
17 services; 5) rental of facilities and equipment; 6) the first
18 one hundred fifty dollars (\$150) of the daily expense of
19 leasing of vehicles, not including the chartering of aircraft
20 for out-of-state transportation; however, New Mexico-based
21 chartered aircraft for in-state transportation directly
22 attributable to the production shall be considered a direct
23 production expenditure; 7) food; 8) the first three hundred
24 dollars (\$300) of lodging per individual, per day; 9)
25 commercial airfare if purchased through a New Mexico-based

1 travel agency or travel company for travel to and from
2 New Mexico or within New Mexico that is directly attributable
3 to the production; 10) insurance coverage and bonding if
4 purchased through a New Mexico-based insurance agent, broker
5 or bonding agent; 11) subcontracted goods and services from
6 businesses; provided that the ordinary course of business of
7 the vendor procuring the goods and services from the
8 subcontractor directly relates to standard film industry
9 goods and services; and 12) other direct costs of producing a
10 film in accordance with generally accepted entertainment
11 industry practice; and

12 (2) does not include an expenditure for:

13 (a) a gift with a value greater than
14 one hundred dollars (\$100);

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

20 (c) entertainment, amusement or
21 recreation;

22 (d) subcontracted goods or services
23 provided by a vendor when the subcontractors providing those
24 goods or services to the vendor are not subject to state
25 taxation, such as equipment and locations provided by the

1 military, government and organizations that demonstrate to
2 the taxation and revenue department that they have been
3 granted exemption from the federal income tax by the United
4 States commissioner of internal revenue as organizations
5 described in Section 501(c)(3) of the United States Internal
6 Revenue Code of 1986, as amended or renumbered;

7 (e) subcontracted services provided by
8 a vendor when the subcontracted services are provided by a
9 person who is below-the-line crew and is not a New Mexico
10 resident;

11 (f) hidden or other indirect service
12 fees, costs, commissions or other remuneration received by
13 third parties and that are not directly paid by the film
14 production company or expressly enumerated on a film
15 production company's filing to claim a new film production
16 tax credit;

17 (g) wages for a person who is not a
18 New Mexico resident and who falsely claims to be a New Mexico
19 resident. The wages of such person shall not be considered
20 an eligible expense for two years from the date in which the
21 person is determined by the taxation and revenue department
22 as having made a false claim, regardless of whether the
23 person becomes a New Mexico resident within that time frame;
24 or

25 (h) which the film production company

1 receives funding pursuant to Section 21-19-7.1 NMSA 1978;

2 F. "division" means the New Mexico film division
3 of the economic development department;

4 G. "federal new markets tax credit program" means
5 the tax credit program codified as Section 45D of the
6 United States Internal Revenue Code of 1986, as amended;

7 H. "film" means a single medium or multimedia
8 program, including television programs but excluding
9 advertising messages other than national or regional
10 advertising messages intended for exhibition, that:

11 (1) is fixed on film, a digital medium,
12 videotape, computer disc, laser disc or other similar
13 delivery medium;

14 (2) can be viewed or reproduced;

15 (3) is not intended to and does not violate
16 a provision of Chapter 30, Article 37 NMSA 1978; and

17 (4) is intended for reasonable commercial
18 exploitation for the delivery medium used;

19 I. "film production company" means a person that
20 produces one or more films or commercial audiovisual products
21 or any part of a film or commercial audiovisual product;

22 J. "fiscal year" means the state fiscal year
23 beginning on July 1;

24 K. "New Mexico resident" means an individual who
25 is domiciled in this state during any part of the taxable

1 year or an individual who is physically present in this state
2 for one hundred eighty-five days or more during the taxable
3 year; but any individual, other than someone who was
4 physically present in the state for one hundred eighty-five
5 days or more during the taxable year and who, on or before
6 the last day of the taxable year, changed the individual's
7 place of abode to a place without this state with the bona
8 fide intention of continuing actually to abide permanently
9 without this state is not a resident for the purposes of the
10 Film Production Tax Credit Act for periods after that change
11 of abode;

12 L. "performing artist" means an actor, on-camera
13 stuntperson, puppeteer, pilot who is a stuntperson or actor,
14 specialty foreground performer or narrator; and who speaks a
15 line of dialogue, is identified with the product or reacts to
16 narration as assigned. "Performing artist" does not include
17 a background artist;

18 M. "personal services business" means a business
19 organization, with or without physical presence, that
20 receives payments pursuant to the Film Production Tax Credit
21 Act for the services of a performing artist;

22 N. "physical presence" means a physical address in
23 New Mexico from which a vendor conducts business, stores
24 inventory or otherwise creates, assembles or offers for sale
25 the product purchased or leased by a film production company

1 and the vendor or an employee of the vendor is a resident;

2 O. "postproduction expenditure" means an
3 expenditure, certified pursuant to Subsection A of Section
4 7-2F-12 NMSA 1978, for editing, Foley recording, automatic
5 dialogue replacement, sound editing, special effects,
6 including computer-generated imagery or other effects,
7 scoring and music editing, beginning and end credits,
8 negative cutting, soundtrack production, dubbing, subtitling
9 or addition of sound or visual effects; but not including an
10 expenditure for advertising, marketing, distribution or
11 expense payments;

12 P. "principal photography" means the production of
13 a film during which the main visual elements are created;

14 Q. "qualified production facility" means a
15 building, or complex of buildings, building improvements and
16 associated back-lot facilities in which films are or are
17 intended to be regularly produced and that contain at least
18 one:

19 (1) sound stage with contiguous floor space
20 of at least seven thousand square feet and a ceiling height
21 of no less than eighteen feet; or

22 (2) standing set that includes at least one
23 interior, and at least five exteriors, built or re-purposed
24 for film production use on a continual basis and is located
25 on at least fifty acres of contiguous space designated for

1 film production use; and

2 R. "vendor" means a person who sells or leases
3 goods or services that are related to standard industry craft
4 inventory, who has a physical presence in New Mexico and is
5 subject to gross receipts tax pursuant to the Gross Receipts
6 and Compensating Tax Act or income tax pursuant to the Income
7 Tax Act or corporate income tax pursuant to the Corporate
8 Income and Franchise Tax Act but excludes a personal services
9 business and services provided by nonresidents hired or
10 subcontracted if the tasks and responsibilities are
11 associated with the standard industry job position of
12 director, writer or producer."

13 SECTION 5. Section 7-2F-4 NMSA 1978 (being Laws 2011,
14 Chapter 165, Section 5, as amended) is amended to read:

15 "7-2F-4. REPORTING--ACCOUNTABILITY.--

16 A. The economic development department shall:

17 (1) collect data to be used in an
18 econometric tool that objectively assesses the effectiveness
19 of the credits provided by the Film Production Tax Credit
20 Act;

21 (2) track the direct expenditures for the
22 credits;

23 (3) with the support and assistance of the
24 legislative finance committee staff and the taxation and
25 revenue department, review and assess the analysis developed

1 in Paragraph (1) of this subsection and create a report for
2 presentation to the revenue stabilization and tax policy
3 committee and the legislative finance committee that provides
4 an objective assessment of the effectiveness of the credits;
5 and

6 (4) report annually to the revenue
7 stabilization and tax policy committee and the legislative
8 finance committee on aggregate approved tax credits made
9 pursuant to the Film Production Tax Credit Act and the past
10 performance of and current outlook for the Film Production
11 Tax Credit Act, including:

12 (a) the aggregate amount of credits
13 paid subject to the aggregate amount allowed pursuant to
14 Subsection B of Section 7-2F-12 NMSA 1978 in the prior
15 fiscal year and the current amount of claims in the queue
16 pursuant to Subsection C of Section 7-2F-12 NMSA 1978;

17 (b) the aggregate amount of approved
18 credits paid in the prior fiscal year for expenditures by
19 certain film production companies that are not subject to the
20 aggregate amount of claims allowed pursuant to Section
21 7-2F-12 NMSA 1978;

22 (c) the number of applicants receiving
23 the additional credit for television pilots and series
24 pursuant to Section 7-2F-7 NMSA 1978;

25 (d) the number of applicants receiving

1 the additional amount for expenditures made in certain areas
2 of the state pursuant to Section 8 of this 2019 act;

3 (e) the aggregate amount of direct
4 production expenditures and post production expenditures in
5 New Mexico during the prior fiscal year, shown by county;

6 (f) the total number and wages of
7 New Mexico residents employed by film production companies in
8 the prior fiscal year; and

9 (g) any other relevant information, as
10 determined by the division.

11 B. The division shall develop a form on which the
12 taxpayer claiming a credit pursuant to the Film Production
13 Tax Credit Act shall submit a report to accompany the
14 taxpayer's application for that credit.

15 C. With respect to the production on which the
16 application for a credit is based, the film production
17 company shall report to the division at a minimum the
18 following information:

19 (1) the total aggregate wages of the members
20 of the New Mexico resident crew;

21 (2) the number of New Mexico residents
22 employed;

23 (3) the total amount of gross receipts taxes
24 paid;

25 (4) the total number of hours worked by

1 New Mexico residents;

2 (5) the total expenditures made in
3 New Mexico that do not qualify for the credit;

4 (6) the aggregate wages paid to the members
5 of the nonresident crew while working in New Mexico;

6 (7) the aggregate amount of direct
7 production expenditures and postproduction expenditures in
8 New Mexico in the prior fiscal year, shown by county; and

9 (8) other information deemed necessary by
10 the division and economic development department to determine
11 the effectiveness of the credit.

12 D. For purposes of assessing the effectiveness of
13 a credit, the inability of the economic development
14 department to aggregate data due to sample size shall not
15 relieve the department of the requirement to report all
16 relevant data to the legislature. The division shall provide
17 notice to a film production company applying for a credit
18 that information provided to the division may be revealed by
19 the department in reports to the legislature."

20 SECTION 6. Section 7-2F-12 NMSA 1978 (being Laws 2015,
21 Chapter 143, Section 11) is repealed and a new Section
22 7-2F-12 NMSA 1978 is enacted to read:

23 "7-2F-12. CREDIT CLAIMS--CERTIFICATION OF DIRECT
24 PRODUCTION AND POSTPRODUCTION EXPENDITURES--AGGREGATE AMOUNT
25 OF CLAIMS ALLOWED--EXCEPTION.--

1 A. The division shall certify a film production
2 company's budget for direct production expenditures and
3 postproduction expenditures during a preproduction meeting
4 with the division; provided that the division is prohibited
5 from certifying a film production company's budget if the
6 total expected claims in excess of the aggregate amount of
7 claims that may be authorized for payment pursuant to
8 Subsection B of this section would exceed one hundred million
9 dollars (\$100,000,000) in any fiscal year; and provided
10 further that the limitation in this subsection shall not
11 apply to certification of a budget for a New Mexico film
12 partner.

13 B. Except as provided in Section 10 of this 2019
14 act, the aggregate amount of claims for a credit provided by
15 the Film Production Tax Credit Act that may be authorized for
16 payment in any fiscal year is one hundred ten million dollars
17 (\$110,000,000) with respect to the direct production
18 expenditures or postproduction expenditures made on film or
19 commercial audiovisual products; provided that direct
20 production expenditures and postproduction expenditures made
21 by a New Mexico film partner shall not be subject to the
22 aggregate amount of claims provided by this subsection.

23 C. If a film production company submits a claim
24 for a credit pursuant to the Film Production Tax Credit Act
25 and the aggregate amount of claims pursuant to Subsection B

1 of this section has been met for the fiscal year, the claim
2 shall be placed at the front of a queue for payment in a
3 subsequent fiscal year. Claims shall be placed in order of
4 the date on which the completed return in which the credit is
5 claimed is filed. Claims authorized for payment shall be
6 paid pursuant to the Tax Administration Act.

7 D. If, in fiscal years 2020 through 2022, the
8 aggregate amount of claims authorized for payment is less
9 than one hundred ten million dollars (\$110,000,000),
10 excluding claims by a New Mexico film partner, then the
11 difference in that fiscal year or twenty million dollars
12 (\$20,000,000), whichever is less, shall be added to the
13 aggregate amount of claims that may be authorized for payment
14 pursuant to Subsection B of this section in the immediately
15 following fiscal year.

16 E. To provide guidance to film production
17 companies regarding the amount of credit capacity remaining
18 in the fiscal year, the taxation and revenue department shall
19 post monthly on that department's website the aggregate
20 amount of credits claimed and paid for the fiscal year. In
21 addition, the division shall post monthly on the division's
22 website the aggregate amount of claims certified pursuant to
23 Subsection A of this section for the fiscal year or any
24 subsequent fiscal year.

25 F. As used in this section, "New Mexico film

1 partner" means a film production company that has made a
2 commitment to produce films or commercial audiovisual
3 products in New Mexico and has purchased or executed a
4 ten-year contract to lease a qualified production facility."

5 SECTION 7. A new section of the Film Production Tax
6 Credit Act is enacted to read:

7 "NEW FILM PRODUCTION TAX CREDIT.--

8 A. The tax credit created by this section may be
9 referred to as the "new film production tax credit".

10 B. A film production company that meets the
11 requirements of the Film Production Tax Credit Act may apply
12 for, and the taxation and revenue department may allow, a tax
13 credit in an amount equal to twenty-five percent of:

14 (1) direct production expenditures made in
15 New Mexico that:

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

19 (b) are subject to taxation by the
20 state of New Mexico;

21 (c) exclude direct production
22 expenditures for which another taxpayer claims the new film
23 production tax credit; and

24 (d) do not exceed the usual and
25 customary cost of the goods or services acquired when

1 purchased by unrelated parties. The secretary of taxation
2 and revenue may determine the value of the goods or services
3 for purposes of this section when the buyer and seller are
4 affiliated persons or the sale or purchase is not an arm's
5 length transaction; and

6 (2) postproduction expenditures made in
7 New Mexico that:

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

10 (b) are for services performed in
11 New Mexico;

12 (c) are subject to taxation by the
13 state of New Mexico;

14 (d) exclude postproduction expenditures
15 for which another taxpayer claims the new film production tax
16 credit; and

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

24 C. With respect to expenditures attributable to a
25 production for which the film production company receives a

1 tax credit pursuant to the federal new markets tax credit
2 program, the percentage to be applied in calculating the
3 amount of credit allowed pursuant to the Film Production Tax
4 Credit Act is twenty percent.

5 D. A claim for new film production tax credits
6 shall be filed as part of a return filed pursuant to the
7 Income Tax Act or the Corporate Income and Franchise Tax Act
8 or an information return filed by an entity assigned payment
9 of an authorized credit pursuant to Section 7-2F-5 NMSA 1978.
10 The date a complete credit claim is received by the taxation
11 and revenue department shall determine the order that a
12 credit claim is authorized for payment by the department.
13 The film production company may apply all or a portion of the
14 new film production tax credit granted against personal
15 income tax liability or corporate income tax liability. If
16 the amount of the credit claimed exceeds the film production
17 company's tax liability for the taxable year in which the
18 credit is being claimed, the excess shall be refunded.

19 E. A credit claim shall only be considered
20 received by the taxation and revenue department if the credit
21 claim is made on a complete return filed after the close of
22 the taxable year. All direct production expenditures and
23 postproduction expenditures incurred during the taxable year
24 by a film production company shall be submitted as part of
25 the same income tax return and paid pursuant to this section.

1 A credit claim shall not be divided and submitted with
2 multiple returns or in multiple years.

3 F. For purposes of determining the payment of
4 credit claims pursuant to this section, the secretary of
5 taxation and revenue may require that credit claims of
6 affiliated persons be combined into one claim if necessary to
7 accurately reflect closely integrated activities of
8 affiliated persons.

9 G. The new film production tax credit shall not be
10 claimed with respect to direct production expenditures or
11 postproduction expenditures for which the film production
12 company has delivered a nontaxable transaction certificate
13 pursuant to Section 7-9-86 NMSA 1978 or alternative evidence
14 pursuant to Section 7-9-43 NMSA 1978.

15 H. A production for which the new film production
16 tax credit is claimed pursuant to Paragraph (1) of Subsection
17 B of this section shall contain an acknowledgment to the
18 state of New Mexico. Unless otherwise agreed upon in writing
19 by the film production company and the division, the
20 acknowledgment shall be in the end screen credits that the
21 production was filmed in New Mexico and a three-second static
22 or animated state logo provided by the division shall be
23 included and embedded in the following:

24 (1) end screen credits before the
25 below-the-line crew crawl for the life of the project of

1 long-form narrative film productions; and

2 (2) body of the program for the life of
3 television episodes, the placement of which shall be:

4 (a) in the opening sequence;

5 (b) as a bumper into or out of a
6 commercial break; or

7 (c) in a prominent position in each
8 single project's end credits with no less than a half screen
9 exposure, but not covering content.

10 I. To be eligible for the new film production tax
11 credit, a film production company shall submit to the
12 division information required by the division to demonstrate
13 conformity with the requirements of the Film Production Tax
14 Credit Act, including production data deemed necessary by the
15 division and the economic development department to determine
16 the effectiveness of the credit, and a projection of the new
17 film production tax credit claim the film production company
18 plans to submit. In addition, the film production company
19 shall agree in writing:

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

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

24 (a) contains production company
25 information, including the name of the production and contact

1 information that includes a working phone number and email
2 address for both the local production office and the
3 permanent production office to notify the public of the need
4 to file creditor claims against the film production company;
5 and

6 (b) remains posted on the website until
7 all financial obligations incurred in the state by the film
8 production company have been paid;

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

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

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

21 J. The division, in consultation with the taxation
22 and revenue department, shall determine the eligibility of
23 the film production company and shall report this information
24 to the taxation and revenue department in a manner and at
25 times the economic development department and the taxation

1 and revenue department shall agree upon. The division shall
2 also post on its website all information provided by the film
3 production company that does not reveal revenue, income or
4 other information that may jeopardize the confidentiality of
5 income tax returns.

6 K. To receive a new film production tax credit, a
7 film production company shall apply to the taxation and
8 revenue department on forms and in the manner the department
9 may prescribe. The application shall include a certification
10 of the amount of direct production expenditures or
11 postproduction expenditures made in New Mexico with respect
12 to the film production for which the film production company
13 is seeking the credit; provided that for the credit, the
14 application shall be submitted within one year of the date of
15 the last direct production expenditure in New Mexico or the
16 last postproduction expenditure in New Mexico. If the amount
17 of the requested tax credit exceeds five million dollars
18 (\$5,000,000), the application shall also include the results
19 of an audit, conducted by a certified public accountant
20 licensed to practice in New Mexico, verifying that the
21 expenditures have been made in compliance with the
22 requirements of this section. If the requirements of this
23 section have been complied with, the taxation and revenue
24 department shall approve the credit and issue a document
25 granting the credit.

1 L. That amount of a new film production tax credit
2 for total payments as applied to direct production
3 expenditures for the services of performing artists shall not
4 exceed five million dollars (\$5,000,000) for services
5 rendered by nonresident performing artists and resident
6 principal performing artists in a production. This
7 limitation shall not apply to the services of background
8 artists."

9 SECTION 8. A new section of the Film Production Tax
10 Credit Act is enacted to read:

11 "ADDITIONAL AMOUNTS TO BE APPLIED IN CALCULATING CREDIT
12 AMOUNTS--EXPENDITURES MADE IN CERTAIN AREAS OF THE
13 STATE--TELEVISION PILOTS AND SERIES.--

14 A. In addition to the percentage of direct
15 production expenditures and postproduction expenditures
16 calculated pursuant to Section 7 of this 2019 act, an
17 additional five percent shall be applied for payments for
18 direct production expenditures and postproduction
19 expenditures:

20 (1) for work, services or items provided on
21 location for a production of a film or commercial audiovisual
22 product that is located in New Mexico but at least sixty
23 miles outside of the exterior boundaries of certain counties;
24 and

25 (2) for either of the following:

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

7 (b) on a production in a qualified
8 production facility.

9 B. As used in this section, "certain counties"
10 includes counties with a net taxable value of property for
11 property taxation purposes of greater than six billion
12 dollars (\$6,000,000,000)."

13 SECTION 9. A new section of the Film Production Tax
14 Credit Act is enacted to read:

15 "NONRESIDENT BELOW-THE-LINE CREW CREDIT.--

16 A. A film production company may apply for, and
17 the taxation and revenue department may allow, a tax credit
18 in an amount equal to fifteen percent of the payment of wages
19 for below-the-line crew who are not New Mexico residents,
20 that are directly attributable to the production in
21 New Mexico of a film or commercial audiovisual product for
22 which the film production company is claiming a new film
23 production tax credit; provided that:

24 (1) the service for which payment is made is
25 rendered in New Mexico;

1 (2) the total eligible wages for
2 below-the-line crew who are not New Mexico residents are:

3 (a) not more than fifteen percent of
4 the production's total New Mexico budget for below-the-line
5 crew wages; or

6 (b) as determined by the division, up
7 to twenty percent of the production's total New Mexico budget
8 for below-the-line crew wages; provided that sufficient and
9 qualified below-the-line crew who are New Mexico residents
10 are not available. A film production company that is
11 approved for the additional credit by meeting the
12 requirements of this paragraph shall make a financial or
13 promotional contribution toward educational, media-related
14 nonprofit or workforce development efforts in New Mexico, as
15 determined by the division; and

16 (3) the film production company makes
17 financial or promotional contributions toward educational or
18 workforce development efforts in New Mexico as determined by
19 the division, including:

20 (a) a payment to a New Mexico
21 educational institution that administers at least one
22 industry-recognized film or multimedia program, as determined
23 by the division, equal to at least two and one-half percent
24 of the direct production expenditures for the payment of
25 wages, fringe benefits and per diem for nonresident industry

1 crew made by the film production company to nonresident
2 industry crew; or

3 (b) promotion of the New Mexico film
4 industry by directors, actors or producers affiliated with
5 the film production company's project through: 1) social
6 media that is managed by the state; 2) radio interviews
7 facilitated by the division; 3) enhanced screen credit
8 acknowledgments; or 4) related events that are facilitated,
9 conducted or sponsored by the division.

10 B. The credit provided by this section may be
11 referred to as the "nonresidential below-the-line crew
12 credit."

13 SECTION 10. TEMPORARY PROVISION--AUTHORIZATION TO PAY
14 APPROVED CREDITS PURSUANT TO THE FILM PRODUCTION TAX CREDIT
15 ACT.--

16 A. In addition to the aggregate amount of claims
17 that may be paid pursuant to Section 7-2F-12 NMSA 1978, a
18 claim for a tax credit approved by the taxation and revenue
19 department pursuant to the Film Production Tax Credit Act
20 shall be paid:

21 (1) prior to July 1, 2019; provided that the
22 aggregate amount of claims for credits that may be authorized
23 for payment pursuant to this subsection does not exceed one
24 hundred million dollars (\$100,000,000); and

25 (2) on or after July 1, 2019, but prior to

1 July 1, 2020; provided that the aggregate amount of claims
2 for credits that may be authorized for payment pursuant to
3 this subsection does not exceed ninety-five million dollars
4 (\$95,000,000) and that the claim meets the requirements of
5 the Film Production Tax Credit Act; provided further that, if
6 the fiscal year 2019 general fund revenues estimated by the
7 consensus revenue estimating group presented to the
8 legislative finance committee in August 2019 exceeds the
9 fiscal year 2019 general fund revenues forecasted by the
10 consensus revenue estimating group in February 2019 by at
11 least thirty million dollars (\$30,000,000), then the
12 ninety-five-million dollar (\$95,000,000) threshold shall be
13 increased to one hundred twenty-five million dollars
14 (\$125,000,000).

15 B. A claim that exceeds the authorized amounts to
16 be paid as provided in this section shall be paid in
17 accordance with the applicable provisions of the Film
18 Production Tax Credit Act, as those provisions were in effect
19 on the date the claim was approved.

20 SECTION 11. APPLICABILITY.--

21 A. The provisions of Sections 4 and 7 through 9 of
22 this act apply to film production companies that commence
23 principal photography for a film or commercial audiovisual
24 product on or after July 1, 2019.

25 B. The provisions of Sections 7-2F-2.1 and

1 7-2F-6 through 7-2F-11 NMSA 1978 shall not apply to a film
2 production company that commences principal photography for
3 a film or commercial audiovisual product on or after
4 July 1, 2019.

5 SECTION 12. EFFECTIVE DATE.--

6 A. The effective date of the provisions of
7 Sections 1, 4 and 5 through 9 of this act is July 1, 2019.

8 B. The effective date of the provisions of
9 Section 2 of this act is January 1, 2020. _____

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