

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 416

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX OR CORPORATE
INCOME TAX CREDIT FOR CERTAIN FILM PRODUCTION EXPENDITURES MADE
IN NEW MEXICO; DECLARING AN EMERGENCY.

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

Section 1. NEW MEXICO FILMMAKER TAX CREDIT. --

A. The tax credit created by this section may be referred to as the "New Mexico filmmaker tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to five percent of direct production expenditures:

- (1) that are made in New Mexico;
- (2) that are subject to taxation by the state of New Mexico;
- (3) of which sixty percent are made to employ

1 residents of New Mexico;

2 (4) are made by residents of New Mexico for
3 the purposes of this section, as defined in Subsection G of
4 this section;

5 (5) on equipment, goods, services, vehicles or
6 other direct production expenditures provided by individuals or
7 companies paying gross receipts tax in New Mexico for a minimum
8 of two years; and

9 (6) on rental equipment if it is domiciled in
10 New Mexico for a minimum of one hundred eighty-three days per
11 year.

12 B. The New Mexico filmmaker tax credit shall not be
13 claimed with respect to expenditures for which the film
14 production company claiming the credit has delivered a
15 nontaxable transaction certificate pursuant to Section 7-9-86
16 NMSA 1978.

17 C. A long-form narrative film production for which
18 the New Mexico filmmaker tax credit is claimed shall contain an
19 acknowledgment that the production was filmed in New Mexico.

20 D. To be eligible for the New Mexico filmmaker tax
21 credit, a film production company shall submit to the New
22 Mexico film division of the economic development department
23 information required by the division to demonstrate conformity
24 with the requirements of this section. The division shall
25 determine the eligibility of the company and shall report this

1 information to the taxation and revenue department in a manner
2 and at times the economic development department and the
3 taxation and revenue department shall agree upon.

4 E. To receive a New Mexico filmmaker tax credit, a
5 film production company shall apply to the taxation and revenue
6 department on forms and in the manner the department may
7 prescribe. The application shall include a certification in
8 the amount of direct production expenditures made in accordance
9 with this section with respect to the film production for which
10 the film production company is seeking the New Mexico filmmaker
11 tax credit. If the requirements of this section have been
12 complied with, the taxation and revenue department shall
13 approve the New Mexico filmmaker tax credit and issue a
14 document granting the credit.

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

22 G. For the purposes of this section:

23 (1) "direct production expenditure" means an
24 expenditure used in the production of a film for:

25 (a) the cost of a story or scenario;

- 1 (b) wages or salaries for talent,
2 management or labor paid to a resident of New Mexico;
3 (c) the cost of set construction and
4 operations, wardrobe, accessories and related services;
5 (d) the cost of photography, sound
6 synchronization, lighting and related services;
7 (e) the cost of editing and related
8 services;
9 (f) rental of facilities and equipment;
10 (g) leasing of a vehicle;
11 (h) the cost of food or lodging;
12 (i) travel costs limited to airfare paid
13 to a travel agency or travel company with its primary place of
14 business in New Mexico;
15 (j) the cost of insurance and bonding
16 paid to an insurance company or agency with its primary place
17 of business in New Mexico; and
18 (k) other direct costs of producing the
19 film;
20 (2) "film" means a single media or multimedia
21 program, including a national advertising message, that is
22 fixed on film, videotape, computer disc, laser disc or other
23 similar delivery medium, that can be viewed or reproduced and
24 that is:
25 (a) exhibited in a theater;

1 (b) licensed for exhibition by a
2 television station, network or other means; or

3 (c) licensed for the home viewing
4 market;

5 (3) "film production company" means a company
6 that produces a film for exhibition in theaters, on television
7 or elsewhere;

8 (4) "New Mexico resident" means a person whose
9 primary residence has been in the state of New Mexico for the
10 previous two years as defined by the New Mexico film division
11 of the economic development department in consultation with the
12 taxation and revenue department;

13 (5) "New Mexico vendor" means a vendor who
14 demonstrates significant ownership interest in equipment
15 provided for lease to production companies in their New Mexico
16 operation; and

17 (6) "New Mexico vehicle" means a vehicle
18 originally titled in New Mexico or continuously titled in New
19 Mexico for a minimum of two years.

20 Section 2. APPLICABILITY.--The provisions of this act
21 apply to taxable years beginning on or after January 1, 2005.

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