

[Second Reprint]

SENATE, No. 3275

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 16, 2024

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator JOHN F. MCKEON

District 27 (Essex and Passaic)

Assemblywoman MARGIE DONLON, M.D.

District 11 (Monmouth)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senators Moriarty, Mukherji, Johnson, McKnight, Assemblywomen Reynolds-Jackson, Murphy, Assemblyman Miller, Assemblywomen Hall, Speight and Park

SYNOPSIS

Revises various provisions of film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning the film and digital media content production
2 tax credit program and amending ²P.L.2020, c.156 and²
3 P.L.2018, c.56.
4

5 ¹1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
6 read as follows:

7 98. a. The combined value of all tax credits awarded under the
8 "Historic Property Reinvestment Act," sections 2 through 8 of
9 P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields
10 Redevelopment Incentive Program Act," sections 9 through 19 of
11 P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey
12 Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156
13 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act,"
14 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
15 34:1B-310); the "New Jersey Community-Anchored Development
16 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
17 34:1B-321); the "New Jersey Aspire Program Act," sections 54
18 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the
19 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
20 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4), and
21 the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-
22 383 et al.) shall not exceed an overall cap of \$11.5 billion over a nine-
23 year period, subject to the conditions and limitations set forth in this
24 section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
25 transformative projects approved under the Aspire Program.

26 b. (1) The total value of tax credits awarded under any constituent
27 program of the "New Jersey Economic Recovery Act of 2020,"
28 P.L.2020, c.156 (C.34:1B-269 et al.) and the "Cultural Arts Incentives
29 Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), shall be subject to
30 the following limitations, except as otherwise provided in subsection c.
31 of this section:

32 (a) for tax credits awarded under the "Historic Property
33 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-
34 270 through 34:1B-276), the total value of tax credits annually
35 awarded during each of the first six years of the nine-year period shall
36 not exceed \$50 million;

37 (b) for tax credits awarded under the "Brownfields Redevelopment
38 Incentive Program Act," sections 9 through 19 of P.L.2020, c.156
39 (C.34:1B-277 through 34:1B-287), the total value of tax credits
40 annually awarded during each of the first six years of the nine-year
41 period shall not exceed \$50 million;

42 (c) for tax credits awarded under the "New Jersey Innovation
43 Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-
44 288 through 34:1B-302), the total value of tax credits annually

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SEG committee amendments adopted June 10, 2024.**

²**Senate SBA committee amendments adopted June 26, 2024.**

1 awarded during each of the first six years of the nine-year period shall
2 not exceed \$60 million and the total value of tax credits awarded over
3 the entirety of the nine-year period shall not exceed \$300,000,000;

4 (d) for tax credits awarded under the "Food Desert Relief Act,"
5 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
6 34:1B-310), the total value of tax credits annually awarded during
7 each of the first six years of the nine-year period shall not exceed \$40
8 million;

9 (e) for tax credits awarded under the "New Jersey Community-
10 Anchored Development Act," sections 43 through 53 of P.L.2020,
11 c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts
12 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the
13 total value of tax credits awarded during the nine-year period shall not
14 exceed \$1,200,000,000; provided, however, tax credits shall not be
15 available under the "New Jersey Community-Anchored Development
16 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
17 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the
18 authority shall annually award tax credits under the "New Jersey
19 Community-Anchored Development Act," sections 43 through 53 of
20 P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater
21 than \$130 million for projects located in the 13 northern counties of
22 the State, and the authority shall annually award tax credits valuing no
23 greater than \$70 million for projects located in the eight southern
24 counties of the State. If during any year of operation of the "New
25 Jersey Community-Anchored Development Act," sections 43 through
26 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority
27 awards tax credits pursuant to the program in an amount less than the
28 annual limitation for projects located in northern counties or southern
29 counties, as applicable, the uncommitted portion of the annual
30 limitation shall be available to be deployed by the authority in a
31 subsequent year without consideration to the county in which a project
32 is located;

33 (f) for tax credits awarded under the "New Jersey Aspire Program
34 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
35 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of
36 P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded
37 for transformative projects, the total value of tax credits annually
38 awarded during each of the first six years of the nine-year period shall
39 not exceed \$1.1 billion. If the authority awards tax credits in an
40 amount less than the annual limitation, then the uncommitted portion
41 of the annual limitation shall be made available for qualified offshore
42 wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-
43 209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey
44 studio partners **[and]**, New Jersey film-lease production companies,
45 and taxpayers, other than New Jersey studio partners and New Jersey
46 film-lease production companies awarded under sections 1 and 2 of
47 P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to
48 subparagraph (i) of this paragraph and subsection d. of this section.

1 During each of the first six years of the nine-year period, the authority
2 shall annually award tax credits valuing no greater than \$715 million
3 for projects located in the northern counties of the State, and the
4 authority shall annually award tax credits valuing no greater than \$385
5 million for projects located in the southern counties of the State under
6 the "New Jersey Aspire Program Act," sections 54 through 67 of
7 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge
8 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
9 336 et al.). If during any of the first six years of the nine-year period,
10 the authority awards tax credits under the "New Jersey Aspire Program
11 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
12 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of
13 P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual
14 limitation for projects located in northern counties or southern
15 counties, as applicable, the uncommitted portion of the annual
16 limitation shall be available to be deployed by the authority in a
17 subsequent year, provided that the uncommitted portion of tax credits
18 shall be awarded for projects located in the applicable geographic area,
19 except that (i) after the completion of the third year of the nine-year
20 period, the authority may deploy 50 percent of the uncommitted
21 portion of tax credits for any previous year without consideration to
22 the county in which a project is located; and (ii) after the completion
23 of the sixth year of the nine-year period, the authority may deploy all
24 available tax credits, including the uncommitted portion of the annual
25 limitation for any previous year, without consideration to the county in
26 which a project is located;

27 (g) except as provided in subparagraph (j) of this paragraph, for
28 tax credits awarded for transformative projects under the "New Jersey
29 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
30 (C.34:1B-322 through 34:1B-335), the total value of tax credits
31 awarded during the nine-year period shall not exceed \$2.5 billion. The
32 total value of tax credits awarded for transformative projects in a given
33 year shall not be subject to an annual limitation, except that the total
34 value of tax credits awarded to any transformative project shall not
35 exceed \$400 million;

36 (h) from the tax credits made available, pursuant to subparagraph
37 (f) of this paragraph, to the "New Jersey Aspire Program Act,"
38 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
39 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of
40 P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded
41 for transformative projects, an amount not to exceed \$350,000,000
42 shall be made available for qualified offshore wind projects awarded a
43 credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during
44 the first three years of the nine-year period;

45 (i) beginning in fiscal year 2023, from the tax credits made
46 available, pursuant to subparagraph (f) of this paragraph, to the "New
47 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
48 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act,"

1 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
2 including tax credits awarded for transformative projects, additional
3 amounts shall be made available for New Jersey studio partners **[and]**,
4 New Jersey film-lease production companies, and taxpayers, other
5 than New Jersey studio partners and New Jersey film-lease production
6 companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-
7 5.39b and C.54A:4-12b); and

8 (j) beginning in fiscal year 2024, from the tax credits made
9 available, pursuant to subparagraph (f) of this paragraph, to the "New
10 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act,"
12 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
13 including tax credits awarded for transformative projects, an amount
14 not to exceed \$500,000,000 may be annually transferred for the award
15 to transformative projects under the "New Jersey Aspire Program
16 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
17 34:1B-335), provided that: (i) the remaining allocation of tax credits
18 otherwise available for transformative projects, pursuant to
19 subparagraph (g) of this paragraph, is less than \$1,000,000,000; and
20 (ii) the authority board determines that the transfer of tax credits is
21 warranted based on such criteria as the authority deems appropriate,
22 which may include the criteria set forth in paragraph (2) of this
23 subsection. If a transfer of tax credits is made pursuant to this
24 subparagraph, the authority shall award no greater than 65 percent of
25 the tax credits transferred pursuant to this subparagraph to
26 transformative projects located in the northern counties of the State
27 and no greater than 35 percent of the tax credits transferred pursuant to
28 this subparagraph to transformative projects located in the southern
29 counties of the State.

30 (2) The authority may in any given year determine that it is in the
31 State's interest to approve an amount of tax credits in excess of the
32 annual limitations set forth in paragraph (1) of this subsection, but in
33 no event more than \$200,000,000 in excess of the annual limitation,
34 upon a determination by the authority board that such increase is
35 warranted based on specific criteria that may include:

36 (i) the increased demand for opportunities to create or retain
37 employment and investment in the State as indicated by the volume of
38 project applications and the amount of tax credits being sought by
39 those applications;

40 (ii) the need to protect the State's economic position in the event of
41 an economic downturn;

42 (iii) the quality of project applications and the net economic benefit
43 to the State and municipalities associated with those applications;

44 (iv) opportunities for project applications to strengthen or protect
45 the competitiveness of the State under the prevailing market
46 conditions;

1 (v) enhanced access to employment and investment for
2 underserved populations in distressed municipalities and qualified
3 incentives tracts;

4 (vi) increased investment and employment in high-growth
5 technology sectors and in projects that entail collaboration with
6 education institutions in the State;

7 (vii) increased development proximate to mass transit facilities;

8 (viii) any other factor deemed relevant by the authority.

9 c. In the event that the authority in any year approves projects for
10 tax credits in an amount less than the annual limitations set forth in
11 paragraph (1) of subsection b. of this section, then the uncommitted
12 portion of the annual limitation shall be available to be deployed by
13 the authority in future years for projects under the same program;
14 provided however, that in no event shall the aggregate amount of tax
15 credits approved be in excess of the overall cap of \$11.5 billion, and in
16 no event shall the uncommitted portion of the annual limitation for any
17 previous year be deployed after the conclusion of the nine-year period.

18 d. Notwithstanding the provisions of any other law to the
19 contrary, the uncommitted balance of the total value of tax credits
20 authorized for award by the authority pursuant to subparagraph (f) of
21 paragraph (1) of subsection b. of this section to the "New Jersey
22 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
23 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68
24 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made
25 available for tax credits allowed to New Jersey studio partners **[and]**,
26 New Jersey film-lease production companies, and taxpayers, other
27 than New Jersey studio partners and New Jersey film-lease production
28 companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-
29 5.39b and C.54A:4-12b). The value of tax credits, including tax
30 credits allowed through the granting of tax credit transfer certificates,
31 made available to New Jersey studio partners **[and]**, New Jersey film-
32 lease production companies, and taxpayers, other than New Jersey
33 studio partners and New Jersey film-lease production companies
34 pursuant to this subsection shall be as follows:

35 (1) in fiscal year 2023, \$250,000,000 for New Jersey studio
36 partners and \$250,000,000 for New Jersey film-lease production
37 companies;

38 (2) in fiscal year 2024, \$250,000,000 for New Jersey studio
39 partners and \$250,000,000 for New Jersey film-lease production
40 companies; and

41 (3) in fiscal year 2025, \$250,000,000 for New Jersey studio
42 partners **[and]**, \$250,000,000 for New Jersey film-lease production
43 companies, and \$300,000,000 for taxpayers, other than New Jersey
44 studio partners and New Jersey film-lease production companies.

45 If the value of tax credits, including tax credits allowed through the
46 granting of tax credit transfer certificates, approved to New Jersey
47 studio partners and New Jersey film-lease production companies in
48 any fiscal year pursuant to this subsection is less than the cumulative

1 total amount of tax credits permitted to be approved in that fiscal year,
2 the authority shall certify the amount of the remaining tax credits
3 available for approval to each such category in that fiscal year, and
4 shall increase the cumulative total amount of tax credits permitted to
5 be approved for New Jersey studio partners and New Jersey film-lease
6 production companies in the subsequent fiscal year by the certified
7 amount remaining for each such category from the prior fiscal year.

8 (cf: P.L.2023, c.197, s.13)¹

9
10 ¹**[1.]** 2.¹ Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is
11 amended to read as follows:

12 1. a. (1) A taxpayer, upon approval of an application to the
13 authority and the director, shall be allowed a credit against the tax
14 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
15 an amount equal to, in the case of a taxpayer designated as a New
16 Jersey studio partner or New Jersey film-lease production company,
17 40 percent, and in the case of a taxpayer other than a New Jersey
18 studio partner or New Jersey film-lease production company, 35
19 percent, of the qualified film production expenses of the taxpayer
20 during a privilege period commencing on or after July 1, 2018 but
21 before July 1, 2039, provided that:

22 (a) at least 60 percent of the total film production expenses,
23 exclusive of post-production costs, of the taxpayer are incurred for
24 services performed, and goods purchased through vendors
25 authorized to do business, in New Jersey, or the qualified film
26 production expenses of the taxpayer during the privilege period for
27 services performed, and goods purchased, through vendors
28 authorized to do business in New Jersey, exceed \$1,000,000 per
29 production ¹; and for reality shows, at least 60 percent of the total
30 film production expenses, exclusive of post-production costs, of the
31 taxpayer are incurred for services performed, and goods purchased
32 through vendors authorized to do business, in New Jersey ^{2, 2} and
33 the qualified film production expenses of the taxpayer during the
34 privilege period for services performed, and goods purchased,
35 through vendors authorized to do business in New Jersey, exceed
36 \$1,000,000 per production¹;

37 (b) principal photography of the film commences within 180
38 days from the date of the original application for the tax credit;

39 (c) the film includes, when determined to be appropriate by the
40 commission, at no cost to the State, marketing materials promoting
41 this State as a film and entertainment production destination, which
42 materials shall include placement of a "Filmed in New Jersey" or
43 "Produced in New Jersey" statement, or an ¹**[approved]**
44 appropriate¹ logo approved by the commission, in the end credits of
45 the film;

1 (d) the taxpayer submits a tax credit verification report prepared
2 by an independent certified public accountant licensed in this State
3 in accordance with subsection f. of this section; and

4 (e) the taxpayer complies with the withholding requirements
5 provided for payments to loan out companies and independent
6 contractors in accordance with subsection g. of this section.

7 (2) Notwithstanding the provisions of paragraph (1) of
8 subsection a. of this section to the contrary, the tax credit allowed
9 pursuant to this subsection against the tax imposed pursuant to
10 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
11 equal to, in the case of a taxpayer designated as a New Jersey studio
12 partner or New Jersey film-lease production company, 35 percent,
13 and in the case of a taxpayer other than a New Jersey studio partner
14 or New Jersey film-lease production company, 30 percent, of the
15 qualified film production expenses of the taxpayer during a
16 privilege period that are incurred for services performed and
17 tangible personal property purchased for use at a sound stage or
18 other location that is located in the State within a 30-mile radius of
19 the intersection of Eighth Avenue/Central Park West, Broadway,
20 and West 59th Street/Central Park South, New York, New York.

21 b. (1) A taxpayer, upon approval of an application to the
22 authority and the director, shall be allowed a credit against the tax
23 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
24 an amount equal to: 30 percent of the qualified digital media
25 content production expenses of the taxpayer during a privilege
26 period commencing on or after July 1, 2018 but before July 1, 2039,
27 provided that:

28 (a) at least ¹[\$2,000,000] ²[\$4,000,000¹] \$2,000,000² of the
29 total digital media content production expenses of the taxpayer are
30 incurred for services performed, and goods purchased through
31 vendors authorized to do business, in New Jersey ²; provided,
32 however, that for applications submitted after the effective date of
33 P.L. , c. (pending before the Legislature as this bill), qualified
34 wage and salary payments made to full-time employees working on
35 digital media shall not be deemed an expense incurred for services
36 performed²;

37 (b) at least 50 percent of the qualified digital media content
38 production expenses of the taxpayer are for wages and salaries paid
39 to full-time or full-time equivalent employees in New Jersey;

40 (c) the taxpayer submits a tax credit verification report prepared
41 by an independent certified public accountant licensed in this State
42 in accordance with subsection f. of this section; and

43 (d) the taxpayer complies with the withholding requirements
44 provided for payments to loan out companies and independent
45 contractors in accordance with subsection g. of this section.

46 (2) Notwithstanding the provisions of paragraph (1) of
47 subsection b. of this section to the contrary, the tax credit allowed
48 pursuant to this subsection against the tax imposed pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
2 equal to 35 percent of the qualified digital media content production
3 expenses of the taxpayer during a privilege period that are incurred
4 for services performed and tangible personal property purchased
5 through vendors whose primary place of business is located in
6 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
7 Mercer, or Salem County.

8 ²(3) Notwithstanding the provisions of paragraph (1) of this
9 subsection to the contrary, the tax credit allowed pursuant to this
10 subsection against the tax imposed pursuant to section 5 of P.L.1945,
11 c.162 (C.54:10A-5) shall be in an amount equal to 40 percent of the
12 qualified digital media content production expenses of the taxpayer
13 during a privilege period that are incurred for post-production services
14 including visual effects services performed at a New Jersey film-lease
15 production facility or that are incurred by a New Jersey studio partner,
16 provided that:

17 (a) at least \$500,000 of the qualified digital media content
18 production expenses of the taxpayer are incurred for post-production
19 services including visual effects services performed at a New Jersey
20 film-lease production facility or are incurred by a New Jersey studio
21 partner;

22 (b) the taxpayer submits a tax credit verification report prepared by
23 an independent certified public accountant licensed in this State in
24 accordance with subsection f. of this section; and

25 (c) the taxpayer complies with the withholding requirements
26 provided for payments to loan out companies and independent
27 contractors in accordance with subsection g. of this section.

28 (4) Notwithstanding the provisions of paragraph (1) of this
29 subsection to the contrary, the tax credit allowed pursuant to this
30 subsection against the tax imposed pursuant to section 5 of P.L.1945,
31 c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the
32 qualified digital media content production expenses of the taxpayer
33 during a privilege period that are incurred for post-production services
34 including visual effects services performed by a qualified independent
35 post-production company, provided that:

36 (a) at least \$500,000 of the qualified digital media content
37 production expenses of the taxpayer are incurred for post-production
38 services including visual effects services performed by a qualified
39 independent post-production company;

40 (b) the taxpayer submits a tax credit verification report prepared by
41 an independent certified public accountant licensed in this State in
42 accordance with subsection f. of this section; and

43 (c) the taxpayer complies with the withholding requirements
44 provided for payments to loan out companies and independent
45 contractors in accordance with subsection g. of this section.²

46 c. No tax credit shall be allowed pursuant to this section for
47 any costs or expenses included in the calculation of any other tax
48 credit or exemption granted pursuant to a claim made on a tax

1 return filed with the director, or included in the calculation of an
2 award of business assistance or incentive, for a period of time that
3 coincides with the privilege period for which a tax credit authorized
4 pursuant to this section is allowed. The order of priority in which
5 the tax credit allowed pursuant to this section and any other tax
6 credits allowed by law may be taken shall be as prescribed by the
7 director. The amount of the tax credit applied under this section
8 against the tax imposed pursuant to section 5 of P.L.1945, c.162
9 (C.54:10A-5), for a privilege period, when taken together with any
10 other payments, credits, deductions, and adjustments allowed by
11 law shall not reduce the tax liability of the taxpayer to an amount
12 less than the statutory minimum provided in subsection (e) of
13 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
14 credit otherwise allowable under this section which cannot be
15 applied for the privilege period due to the limitations of this
16 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
17 1 et seq.) may be carried forward, if necessary, to the seven
18 privilege periods following the privilege period for which the tax
19 credit was allowed.

20 d. A taxpayer, with an application for a tax credit provided for
21 in subsection a. or subsection b. of this section, may apply to the
22 authority and the director for a tax credit transfer certificate in lieu
23 of the taxpayer being allowed any amount of the tax credit against
24 the tax liability of the taxpayer. The tax credit transfer certificate,
25 upon receipt thereof by the taxpayer from the authority and the
26 director, may be sold or assigned, in full or in part, to any other
27 taxpayer that may have a tax liability under the "Corporation
28 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
29 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
30 exchange for private financial assistance to be provided by the
31 purchaser or assignee to the taxpayer that has applied for and been
32 granted the tax credit. The tax credit transfer certificate provided to
33 the taxpayer shall include a statement waiving the taxpayer's right
34 to claim that amount of the tax credit against the tax imposed
35 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
36 taxpayer has elected to sell or assign. The sale or assignment of any
37 amount of a tax credit transfer certificate allowed under this section
38 shall not be exchanged for consideration received by the taxpayer of
39 less than 75 percent of the transferred tax credit amount. Any
40 amount of a tax credit transfer certificate used by a purchaser or
41 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
42 et seq.) shall be subject to the same limitations and conditions that
43 apply to the use of a tax credit pursuant to subsection c. of this
44 section. Any amount of a tax credit transfer certificate obtained by
45 a purchaser or assignee under subsection a. or subsection b. of this
46 section may be applied against the purchaser's or assignee's tax
47 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
48 same limitations and conditions that apply to the use of a credit

1 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
2 (C.54A:4-12b).

3 e. (1) The value of tax credits, including tax credits allowed
4 through the granting of tax credit transfer certificates, approved by
5 the director and the authority pursuant to subsection a. of this
6 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
7 (C.54A:4-12b) ¹, and except as provided in section 98 of P.L.2020,
8 c.156 (C.34:1B-362),¹ to taxpayers, other than New Jersey studio
9 partners and New Jersey film-lease production companies, shall not
10 exceed a cumulative total of \$100,000,000 in fiscal year 2019 and
11 in each fiscal year thereafter prior to fiscal year 2040, to apply
12 against the tax imposed pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
14 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
15 limitation on the value of tax credits approved by the director for
16 New Jersey film-lease production companies and the limitation on
17 the value of tax credits approved by the director for other taxpayers
18 imposed by this paragraph, and except as provided in section 98 of
19 P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including
20 tax credits allowed through the granting of tax credit transfer
21 certificates, approved by the director and the authority pursuant to
22 subsection a. of this section and pursuant to subsection a. of section
23 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners
24 shall not exceed a cumulative total of \$100,000,000 in fiscal year
25 2021 and in each fiscal year thereafter prior to fiscal year 2024, and
26 shall not exceed a cumulative total of \$150,000,000 in fiscal year
27 2024 and in each fiscal year thereafter prior to fiscal year 2040, to
28 apply against the tax imposed pursuant to section 5 of P.L.1945,
29 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New
30 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in
31 fiscal year 2023, in addition to the cumulative total tax credits made
32 available for New Jersey studio partners pursuant to this paragraph
33 and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362),
34 up to an additional \$400,000,000 may be made available annually,
35 in the discretion of the authority, to New Jersey studio partners for
36 the award of tax credits, including tax credits allowed through the
37 granting of tax credit transfer certificates, pursuant to subsection a.
38 of this section and subsection a. of section 2 of P.L.2018, c.56
39 (C.54A:4-12b), from the funds made available pursuant to
40 subparagraph (i) of paragraph (1) of subsection b. of section 98 of
41 P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the
42 value of tax credits approved by the director for New Jersey studio
43 partners and the limitation on the value of tax credits approved by
44 the director for other taxpayers imposed by this paragraph, and
45 except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362),
46 the value of tax credits, including tax credits allowed through the
47 granting of tax credit transfer certificates, approved by the director
48 and the authority pursuant to subsection a. of this section and

1 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
2 12b) to New Jersey film-lease production companies shall not
3 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
4 in each fiscal year thereafter prior to fiscal year 2024, and shall not
5 exceed a cumulative total of \$150,000,000 in fiscal year 2024 and
6 in each fiscal year thereafter prior to fiscal year 2040, to apply
7 against the tax imposed pursuant to section 5 of P.L.1945, c.162
8 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
9 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
10 year 2023, in addition to the cumulative total tax credits made
11 available for New Jersey film-lease production companies pursuant
12 to this paragraph and subsection d. of section 98 of P.L.2020, c.156
13 (C.34:1B-362), up to an additional \$250,000,000 may be made
14 available annually, in the discretion of the authority, to New Jersey
15 film-lease production companies for the award of tax credits,
16 including tax credits allowed through the granting of tax credit
17 transfer certificates, pursuant to subsection a. of this section and
18 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the
19 funds made available pursuant to subparagraph (i) of paragraph (1)
20 of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362).
21 Approvals made to New Jersey studio partners and New Jersey
22 film-lease production companies shall be subject to award
23 agreements with the authority detailing obligations of the awardee
24 and outcomes relating to events of default, including, but not
25 limited to, recapture, forfeiture, and termination. Notwithstanding
26 any provision of this subsection or other law to the contrary, if a
27 film production company designated as a New Jersey studio partner
28 ceases to qualify for its designation as a New Jersey film studio
29 partner and becomes designated as a New Jersey film-lease partner
30 facility, the authority shall reduce the cumulative total amount of
31 tax credits, including tax credits allowed through the granting of tax
32 credit transfer certificates, made available to New Jersey studio
33 partners in each fiscal year and shall increase the cumulative total
34 amount of tax credits permitted to be approved for New Jersey film-
35 lease production companies in each fiscal year by a corresponding
36 amount pursuant to a formula established in rules adopted by the
37 authority which shall consider the volume of applications submitted
38 by New Jersey studio partners and New Jersey film-lease
39 production facilities, the cumulative total amount of tax credits
40 allowed to New Jersey studio partners and New Jersey film-lease
41 production facilities in the prior fiscal year, the total square footage
42 of facility space occupied in the State by New Jersey studio partners
43 and New Jersey film-lease production facilities, and any other
44 factors that the authority deems appropriate. Award agreements
45 between the authority and New Jersey studio partners shall include
46 a requirement for each New Jersey studio partner to occupy the
47 production facility developed, purchased, or leased as a condition of
48 designation as a New Jersey studio partner for the duration of the

1 commitment period. If a New Jersey studio partner fails to occupy
2 the production facility developed, purchased, or leased as a
3 condition of designation as a New Jersey studio partner for the
4 duration of the commitment period or otherwise fails to satisfy the
5 conditions for designation as a New Jersey studio partner, the
6 authority shall recapture the portion of the tax credit that was only
7 available to the taxpayer by virtue of the taxpayer's designation as a
8 New Jersey studio partner, and all films for which an initial
9 approval has been given, but for which the authority has not
10 approved final documentation, shall terminate. The authority shall
11 establish a non-binding, administrative pre-certification process for
12 potentially eligible projects.

13 If the cumulative total amount of tax credits, and tax credit
14 transfer certificates, allowed to taxpayers for privilege periods or
15 taxable years commencing during a single fiscal year under
16 subsection a. of this section and subsection a. of section 2 of
17 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
18 available in that fiscal year, then taxpayers who have first applied
19 for and have not been allowed a tax credit or tax credit transfer
20 certificate amount for that reason shall have their applications
21 approved by the authority, provided the application otherwise
22 satisfies the requirements of this section, and shall be allowed the
23 amount of tax credit or tax credit transfer certificate on the first day
24 of the next succeeding fiscal year in which tax credits and tax credit
25 transfer certificates under subsection a. of this section and
26 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not
27 in excess of the amount of credits available.

28 Notwithstanding any provision of this paragraph to the contrary,
29 for any fiscal year in which the amount of tax credits approved to
30 New Jersey studio partners, New Jersey film-lease production
31 companies, or taxpayers other than New Jersey studio partners and
32 New Jersey film-lease production companies pursuant to this
33 paragraph is less than the cumulative total amount of tax credits
34 permitted to be approved to each such category, in that fiscal year,
35 the authority shall certify the amount of the remaining tax credits
36 available for approval to each such category in that fiscal year, and
37 shall increase the cumulative total amount of tax credits permitted
38 to be approved for New Jersey studio partners, New Jersey film-
39 lease production companies, or taxpayers other than New Jersey
40 studio partners and New Jersey film-lease production companies in
41 the subsequent fiscal year by the certified amount remaining for
42 each such category from the prior fiscal year. The authority shall
43 also certify, for each fiscal year, the amount of tax credits that were
44 previously approved, but that the taxpayer is not able to redeem or
45 transfer to another taxpayer under this section, and shall increase
46 the cumulative total amount of tax credits permitted to be approved
47 for New Jersey studio partners, New Jersey film-lease production
48 companies, or taxpayers other than New Jersey studio partners and

1 New Jersey film-lease production companies in the subsequent
2 fiscal year by the amount of tax credits previously approved for
3 each such category, but not subject to redemption or transfer.

4 (2) The value of tax credits, including tax credits allowed
5 through the granting of tax credit transfer certificates, approved by
6 the authority and the director pursuant to subsection b. of this
7 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
8 (C.54A:4-12b) shall not exceed a cumulative total of \$30,000,000 in
9 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
10 2040 to apply against the tax imposed pursuant to section 5 of
11 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
12 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

13 If the total amount of tax credits and tax credit transfer
14 certificates allowed to taxpayers for privilege periods or taxable
15 years commencing during a single fiscal year under subsection b. of
16 this section and subsection b. of section 2 of P.L.2018, c.56
17 (C.54A:4-12b) exceeds the amount of tax credits available in that
18 year, then taxpayers who have first applied for and have not been
19 allowed a tax credit or tax credit transfer certificate amount for that
20 reason shall ¹be allowed, in the order in which they have
21 submitted an application, have their applications approved by the
22 authority, provided the application otherwise satisfies the
23 requirements of this section, and shall be allowed¹ the amount of
24 tax credit or tax credit transfer certificate on the first day of the next
25 succeeding fiscal year in which tax credits and tax credit transfer
26 certificates under subsection b. of this section and subsection b. of
27 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
28 amount of credits available.

29 ²Beginning in the fiscal year beginning July 1, 2024, in addition to
30 the total amount of tax credits and tax credit transfer certificates
31 allowed to taxpayers for privilege periods or taxable years
32 commencing during a single fiscal year under subsection b. of this
33 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
34 12b), up to an additional \$100,000,000 may be made available, in the
35 discretion of the authority for the award of tax credits, including tax
36 credits allowed through the granting of tax credit transfer certificates,
37 pursuant to subsection b. of this section and subsection b. of section 2
38 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available to
39 taxpayers other than New Jersey studio partners and New Jersey film-
40 lease production companies pursuant to paragraph (3) of subsection d.
41 of section 98 of P.L.2020, c.156 (C.34:1B-362).²

42 Notwithstanding any provision of this paragraph to the contrary,
43 for any fiscal year in which the amount of tax credits approved
44 pursuant to this paragraph is less than the cumulative total amount
45 of tax credits permitted to be approved in that fiscal year, the
46 authority shall certify the amount of the remaining tax credits
47 available for approval in that fiscal year, and shall increase the
48 cumulative total amount of tax credits permitted to be approved in

1 the subsequent fiscal year by the certified amount remaining from
2 the prior fiscal year. The authority shall also certify, for each fiscal
3 year, the amount of tax credits that were previously approved, but
4 that the taxpayer is not able to redeem or transfer to another
5 taxpayer under this section, and shall increase the cumulative total
6 amount of tax credits permitted to be approved in the subsequent
7 fiscal year by the amount of tax credits previously approved, but not
8 subject to redemption or transfer.

9 f. A taxpayer shall submit to the authority and the director a
10 report prepared by an independent certified public accountant
11 licensed in this State to verify the taxpayer's tax credit claim
12 following the completion of the production. A New Jersey studio
13 partner that makes deferred compensation payments based on work
14 or services provided on a production may file a supplemental report
15 prepared by an independent certified public accountant, pursuant to
16 agreed-upon procedures prescribed by the authority and the
17 director, no later than two years after the date on which the
18 production concludes. The deferred compensation payments shall
19 constitute qualified film production expenses as if the expenses
20 were incurred at the time of production, provided there are credits
21 available and subject to the authority's review. The report shall be
22 prepared by the independent certified public accountant pursuant to
23 agreed-upon procedures prescribed by the authority and the
24 director, and shall include such information and documentation as
25 shall be determined to be necessary by the authority and the director
26 to substantiate the qualified film production expenses or the
27 qualified digital media content production expenses of the taxpayer.
28 A single report with attachments deemed necessary by the authority
29 shall be submitted electronically. Upon receipt of the report, the
30 authority and the director shall review the findings of the
31 independent certified public accountant's report, and shall make a
32 determination as to the qualified film production expenses or the
33 qualified digital media content production expenses of the taxpayer.
34 The authority's and the director's review shall include, but shall not
35 be limited to: a review of all non-payroll qualified film production
36 expense items and non-payroll digital media content production
37 expense items over \$20,000; a review of 100 randomly selected
38 non-payroll qualified film production expense items and non-
39 payroll digital media content production expense items that are
40 greater than \$2,500, but less than \$20,000; a review of 100
41 randomly selected non-payroll qualified film production expense
42 items and non-payroll digital media content production expense
43 items that are less than \$2,500; a review of the qualified wages for
44 the 15 employees, independent contractors, or loan-out companies
45 with the highest qualified wages; and a review of the qualified
46 wages for 35 randomly selected employees, independent
47 contractors, or loan-out companies with qualified wages other than
48 the 15 employees, independent contractors, or loan-out companies

1 with the highest qualified wages. The taxpayer's qualified film
2 production expenses and digital media content production expenses
3 shall be adjusted based on any discrepancies identified for the
4 reviewed non-payroll qualified film production expense items, non-
5 payroll digital media content production expense items and
6 qualified wages. The taxpayer's qualified film production expenses
7 and digital media content production expenses also shall be adjusted
8 based on the projection of any discrepancies identified based on the
9 review of randomly selected expense items or wages pursuant to
10 this subsection to the extent that the discrepancies exceed one
11 percent of the total reviewed non-payroll qualified film production
12 expense items, non-payroll digital media content production
13 expense items, or qualified wages. The determination shall be
14 provided in writing to the taxpayer, and a copy of the written
15 determination shall be included in the filing of a return that includes
16 a claim for a tax credit allowed pursuant to this section.

17 g. A taxpayer shall withhold from each payment to a loan out
18 company, to an independent contractor, or to a homeowner for the
19 use of a personal residence an amount equal to 6.37 percent of the
20 payment otherwise due. The amounts withheld shall be deemed to
21 be withholding of liability pursuant to the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be
23 deemed to have the rights, duties, and responsibilities of an
24 employer pursuant to chapter 7 of Title 54A of the New Jersey
25 Statutes. The director shall allocate the amounts withheld for a
26 taxable year to the accounts of the individuals who are employees
27 of a loan out company in proportion to the employee's payment by
28 the loan out company in connection with a trade, profession, or
29 occupation carried on in this State or for the rendition of personal
30 services performed in this State during the taxable year. A loan out
31 company that reports its payments to employees in connection with
32 a trade, profession, or occupation carried on in this State or for the
33 rendition of personal services performed in this State during a
34 taxable year shall be relieved of its duties and responsibilities as an
35 employer pursuant to chapter 7 of Title 54A of the New Jersey
36 Statutes for the taxable year for any payments relating to the
37 payments on which the taxpayer withheld. Notwithstanding any
38 provision of this section to the contrary, qualified film production
39 expenses and qualified digital media content production expenses
40 shall include any payments made by the taxpayer to a loan out
41 company for services performed in New Jersey by individuals who
42 are employees of the loan out company and whose wages and
43 salaries are ¹subject to withholding but ¹ not subject to tax under the
44 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to
45 the provisions of a reciprocity agreement with another state.

46 h. As used in this section:

47 "Authority" means the New Jersey Economic Development
48 Authority.

1 "Business assistance or incentive" means "business assistance or
2 incentive" as that term is defined pursuant to section 1 of P.L.2007,
3 c.101 (C.54:50-39).

4 "Commission" means the Motion Picture and Television
5 Development Commission.

6 "Commitment period" means, for New Jersey studio partners, the
7 period beginning with the commencement of the eligibility period
8 and expiring 10 years following:

9 (1) in the case of a taxpayer developing or purchasing a
10 production facility, the issuance of a temporary certificate of
11 occupancy for the production facility developed or purchased as a
12 condition of designation as a New Jersey studio partner; or

13 (2) in the case of a taxpayer leasing a production facility,
14 commencement of the lease term for the production facility leased
15 as a condition of designation as a New Jersey studio partner.

16 "Digital media content" means ¹**[any data or information that is**
17 **produced in digital form, including data or information created in**
18 **analog form but reformatted in digital form, text, graphics,**
19 **photographs, animation, sound, and video content]** the following
20 digitally formatted and distributed content, which content includes
21 data or information created in analog form but ²**[reformatting]**
22 reformatted² in digital form: animation; video games; visual effects;
23 interactive media, including virtual, augmented, or mixed reality;
24 ²content containing text, graphics, or photographs; ² sound; and
25 video¹. "Digital media content" shall not mean content offerings
26 generated by the end user (including postings on electronic bulletin
27 boards and chat rooms); content offerings comprised primarily of
28 local news, events, weather, or local market reports; public service
29 content; electronic commerce platforms (such as retail and
30 wholesale websites); websites or content offerings that contain
31 obscene material as defined pursuant to N.J.S.2C:34-2 and
32 N.J.S.2C:34-3; websites or content that are produced or maintained
33 primarily for private, industrial, corporate, or institutional purposes;
34 or digital media content acquired or licensed by the taxpayer for
35 distribution or incorporation into the taxpayer's digital media
36 content.

37 "Eligibility period" means, with respect to New Jersey studio
38 partners, the period in which a New Jersey studio partner may claim
39 a tax credit for qualified film production expenses, including
40 expenses that would not constitute qualified film production
41 expenses but for the taxpayer's designation as a New Jersey studio
42 partner, beginning the earlier of the commencement of the principal
43 photography for the New Jersey studio partner's initial film in New
44 Jersey or, in the case of a taxpayer developing or purchasing a
45 production facility, at the issuance of a temporary certificate of
46 occupancy for the production facility developed or purchased as a
47 condition of designation as a New Jersey studio partner and, in the

1 case of a taxpayer leasing a production facility, at the
2 commencement of the lease term for the production facility leased
3 as a condition of designation as a New Jersey studio partner, and
4 extending thereafter for a term of not more than 10 years.

5 "Film" means a feature film, a television series, or a television
6 show of 22 minutes or more in length, intended for a national
7 audience, or a television series or a television show of 22 minutes
8 or more in length intended for a national or regional audience,
9 including, but not limited to, a game show, award show, talk show,
10 competition or variety show filmed before a live audience, or other
11 gala event filmed and produced at a nonprofit arts and cultural
12 venue receiving State funding. "Film" shall not include a
13 production featuring news, current events, weather, and market
14 reports or public programming, or sports event, a production that
15 solicits funds, a production containing obscene material as defined
16 under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily
17 for private, industrial, corporate, or institutional purposes, or a
18 reality show, except if the production company of the reality show
19 ¹owns, leases, or otherwise occupies a production facility of no
20 less than 20,000 square feet of real property for a minimum term of
21 24 months, and invests no less than \$3,000,000 in such a facility
22 within a designated enterprise zone established pursuant to the
23 "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
24 (C.52:27H-60 et al.), or a UEZ-impacted business district
25 established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-
26 66.2) has obtained a minimum ²[10] six² episode order from, and
27 is commissioned and scheduled to premiere on, a major linear
28 network or streaming service¹. "Film" shall not include an award
29 show or other gala event that is not filmed and produced at a
30 nonprofit arts and cultural venue receiving State funding.

31 "Full-time or full-time equivalent employee" means an individual
32 employed by the taxpayer for consideration for at least 35 hours a
33 week, or who renders any other standard of service generally
34 accepted by custom or practice as full-time or full-time equivalent
35 employment, whose wages are subject to withholding as provided in
36 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
37 whose wages are not subject to tax under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
39 reciprocity agreement with another state, regardless of whether the
40 individual is a resident or nonresident taxpayer, or who is a partner
41 of a taxpayer, who works for the partnership for at least 35 hours a
42 week, or who renders any other standard of service generally
43 accepted by custom or practice as full-time or full-time equivalent
44 employment, and whose distributive share of income, gain, loss, or
45 deduction, or whose guaranteed payments, or any combination
46 thereof, is subject to the payment of estimated taxes, as provided in
47 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
48 "Full-time or full-time equivalent employee" shall not include an

1 individual who works as an independent contractor or on a
2 consulting basis for the taxpayer.

3 "Highly compensated individual" means ², for New Jersey studio
4 partners and New Jersey film-lease production companies,² an
5 individual who directly or indirectly receives compensation in
6 excess of \$500,000 for the performance of services used directly in
7 a production ²and for taxpayers other than New Jersey studio partners
8 and New Jersey film-lease production companies, an individual who
9 directly or indirectly receives compensation in excess of \$750,000 for
10 the performance of services used directly in a production². An
11 individual receives compensation indirectly when the taxpayer pays
12 a loan out company that, in turn, pays the individual for the
13 performance of services.

14 "Incurred in New Jersey" means, for any application submitted
15 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
16 pursuant to which a tax credit has not been allowed prior to the
17 effective date of P.L.2021, c.160, service performed within New
18 Jersey and tangible personal property used or consumed in New
19 Jersey. A service is performed in New Jersey to the extent that the
20 individual performing the service is physically located in New
21 Jersey while performing the service. Notwithstanding where the
22 property is delivered or acquired, rented tangible property is used or
23 consumed in New Jersey to the extent that the property is located in
24 New Jersey during its use or consumption and is rented from a
25 vendor authorized to do business in New Jersey ¹**[or]** and¹ the film
26 production company provides to the authority the vendor's
27 information in a form and manner prescribed by the authority.
28 Purchased tangible property is not used and consumed in New
29 Jersey unless it is purchased from a vendor authorized to do
30 business in New Jersey and is delivered to or acquired within New
31 Jersey; provided, however, that if a production is also located in
32 another jurisdiction, the purchased tangible property is used and
33 consumed in New Jersey ¹, to the extent that the property is located
34 in New Jersey during its use or consumption,¹ if the acquisition and
35 delivery of purchased tangible property is located in either New
36 Jersey or another jurisdiction where the production takes place.
37 Payment made to a homeowner for the use of a personal residence
38 located in the State for filming shall be deemed an expense incurred
39 in New Jersey notwithstanding the fact that such homeowner is not
40 a vendor authorized to do business in New Jersey, provided the
41 taxpayer has made the withholding required by subsection g. of this
42 section.

43 "Independent contractor" means an individual treated as an
44 independent contractor for federal and State tax purposes who is
45 contracted with by the taxpayer for the performance of services
46 used directly in a production.

1 ²"Independent post-production company" means a corporation,
2 partnership, limited liability company, or other entity principally
3 engaged in the provision of post-production, including visual effects
4 services for a film or films described in this section including a film or
5 films that do not satisfy the requirements of subparagraph (a) of
6 paragraph (1) of subsection a. of this section, which entity is not a
7 publicly-traded entity or for which entity no more than five percent of
8 the beneficial ownership is owned directly or indirectly by a publicly-
9 traded entity.²

10 "Loan out company" means ²: for applications submitted prior to
11 the effective date of P.L. , c. (pending before the Legislature as
12 this bill), a personal service corporation or other entity with which a
13 taxpayer contracts for the provision of specified individual personnel,
14 such as artists, crew, actors, producers, or directors for the
15 performance of services used directly in a production; and, for
16 applications submitted on or after the effective date of P.L. ,
17 c. (pending before the Legislature as this bill),² a personal service
18 corporation or other entity ^{2,2} ¹authorized to do business in New
19 Jersey¹ ^{2,2} that is contracted with by the taxpayer to provide
20 specified individual personnel, such as artists, crew, actors,
21 producers, or directors for the performance of services used directly
22 in a production. "Loan out company" shall not include entities
23 contracted with by the taxpayer to provide goods or ancillary
24 contractor services such as catering, construction, trailers,
25 equipment, or transportation.

26 "New Jersey film-lease partner facility" means:

27 (1) (a) a production facility in New Jersey whose owner or
28 developer has made the commitment to build, lease, or operate a
29 production facility of 250,000 square feet or more, including a
30 sound stage and production support space, such as production
31 offices, mill space, or a backlot, for a period of five or more
32 successive years, as evidenced by site plan approval or an executed
33 redevelopment agreement with a governmental entity for the
34 purpose of developing a production facility of 250,000 square feet
35 or more;

36 (b) a production facility built, leased, or operated by a
37 production company designated as a New Jersey studio partner and
38 which the New Jersey studio partner no longer occupies; or

39 (c) a portion of a production facility owned by a New Jersey
40 studio partner that is in excess of the space being utilized by the
41 New Jersey studio partner; provided the spaces utilized and
42 unutilized by the New Jersey studio partner both exceed 250,000
43 square feet.

44 (2) A film production company that executes at least a 10-year
45 lease for 250,000 square feet or more from a New Jersey film-lease
46 partner facility shall be eligible to be designated as a New Jersey

1 studio partner, provided the film production company otherwise
2 complies with the eligibility requirements of the program.

3 (3) Except for a production facility, or portion thereof, owned,
4 built, leased, or operated by a film production company designated
5 as a New Jersey studio partner by the authority on or before the
6 181st day next following the effective date of P.L.2023, c.97
7 (C.34:1B-4.2 et al.), in order for a production facility to be
8 designated as a New Jersey film-lease partner facility, the owner or
9 developer shall accept the acquisition by the authority, at the
10 authority's discretion, of equity in the production facility, on
11 commercially reasonable and customary terms and conditions
12 determined by the authority and the New Jersey film-lease partner
13 facility. A film production facility may receive its film-lease
14 partner facility designation prior to executing an equity agreement
15 with the authority provided final approval of such agreement occurs
16 on or before the date on which production commences at the
17 facility.

18 (4) No more than three New Jersey production facilities may be
19 designated as a New Jersey film-lease partner facility; provided,
20 however, this limitation shall not apply to production facilities, or
21 portions thereof, owned, built, leased, or operated by a film
22 production company designated as a New Jersey studio partner.

23 "New Jersey film-lease production company" means a taxpayer,
24 including any taxpayer that is a member of a combined group under
25 section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in
26 which the film-lease production company has a material ownership
27 interest and material operational role in the production, that
28 otherwise complies with the eligibility requirements of the Film and
29 Digital Media Tax Credit Program and has made a commitment to
30 lease or otherwise occupy production space in a New Jersey film-
31 lease partner facility ² **【and who will shoot】** . In addition to the
32 forgoing, if a New Jersey film-lease partner facility has received a
33 temporary or final certificate of occupancy, a film production company
34 shall satisfy one of the following two criteria: (1) the film production
35 company shoots² at least 50 percent of the total principal
36 photography shoot days of the project within New Jersey at the
37 New Jersey film-lease partner facility ²; or (2) the qualified film
38 production expenses of the project for all services performed and
39 goods used or consumed at the New Jersey film-lease partner facility
40 and payments made for the use of the New Jersey film-lease partner
41 facility equal or exceed 33 percent of the total qualified film
42 production expenses of the project. In addition to the forgoing, if a
43 New Jersey film-lease partner facility has not yet received a temporary
44 or final certificate of occupancy, a film production company shall have
45 entered into a lease or sublease with the owner or developer of a New
46 Jersey film-lease partner facility, which lease or sublease is for not less
47 than three years of occupancy of the New Jersey film-lease partner
48 facility and includes at least 36,000 square feet of soundstage space,

1 and the film production company shall have executed a contract with
2 the owner or developer of the New Jersey film-lease partner facility to
3 provide production services for films produced by the film production
4 company in New Jersey prior to the New Jersey film-lease partner
5 facility's receipt of a temporary or final certificate of occupancy². A
6 "New Jersey film-lease production company" may include any other
7 member of a taxpayer's combined group, pursuant to P.L.2018,
8 c.131 (C.54:10A-4.11), or an unrelated entity principally engaged in
9 the production of a film or other commercial audiovisual product
10 with whom a designated New Jersey film-lease production company
11 contracts to perform film production services on its behalf such that
12 the designated New Jersey film-lease production company controls
13 such film or product during preproduction, production, and
14 postproduction and all results and proceeds of such services
15 constitute, from the moment of creation, "works made for hire" for
16 the New Jersey film-lease production company pursuant to the
17 provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101
18 et seq.).

19 ²In the event the authority determines that a New Jersey film-lease
20 production company has failed to meet the qualifications of a New
21 Jersey film-lease production company or otherwise comply with the
22 provisions of this section, the authority may recapture from that film
23 production company the portion of any tax credit that had been
24 awarded to that film production company that was only available to
25 the film production company by virtue of the film production
26 company's designation as a New Jersey film-lease production
27 company.²

28 "New Jersey studio partner" means a film production company
29 that has made a commitment to produce films or commercial
30 audiovisual products in New Jersey and has developed, purchased,
31 or executed a 10-year contract to lease a production facility of
32 250,000 square feet or more, or has executed a purchase contract
33 with a governmental authority for the purpose of developing a
34 production facility of 250,000 square feet or more within 48 months
35 from the date of designation as a New Jersey studio partner;
36 provided, however, the board, in its discretion, may extend the time
37 to execute a purchase contract for an additional 12 months.
38 Effective upon designation as a New Jersey studio partner, a film
39 production company shall be eligible for a credit pursuant to this
40 section, provided the film production company otherwise complies
41 with the eligibility requirements of Film and Digital Media Tax
42 Credit Program. In the event the authority determines that a film
43 production company has failed to meet the qualifications of a New
44 Jersey studio partner or otherwise comply with the provisions of
45 this section, the authority may rescind the New Jersey studio
46 partner designation and may recapture from that film production
47 company the portion of any tax credit that had been awarded to that
48 film production company that was only available to the film

1 production company by virtue of the film production company's
2 designation as a New Jersey studio partner. A "New Jersey studio
3 partner" may include any other member of a taxpayer's combined
4 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
5 entity principally engaged in the production of a film or other
6 commercial audiovisual product with whom a designated New
7 Jersey studio partner contracts to perform film production services
8 on its behalf ²or for its benefit² such that the designated New Jersey
9 studio partner ²: (1)² controls such film or product during pre-
10 production, production, and post-production ²], and all results and
11 proceeds of such services constitute, from the moment of creation,
12 "works made for hire" for the New Jersey studio partner pursuant to
13 the provisions of the federal "Copyright Act of 1976," (17 U.S.C.
14 s.101 et seq.)] ; or (2) controls distribution rights for the resulting film
15 or other commercial audiovisual product, provided that the New Jersey
16 studio partner contracted with the unrelated entity prior to qualified
17 film production expenses being incurred². No more than three film
18 production companies may be designated as a New Jersey studio
19 partner.

20 "Partnership" means an entity classified as a partnership for
21 federal income tax purposes.

22 "Post-production costs" means the costs of the phase of
23 production of a film that follows principal photography, in which
24 raw footage is cut and assembled into a finished film with sound
25 synchronization and visual effects.

26 "Pre-production costs" means the costs of the phase of
27 production of a film that precedes principal photography, in which a
28 detailed schedule and budget for the production is prepared, the
29 script and location is finalized, and contracts with vendors are
30 negotiated.

31 "Qualified digital media content production expenses" means an
32 expense incurred in New Jersey for the production of digital media
33 content. "Qualified digital media content production expenses"
34 shall include but not be limited to: the wages and salaries of
35 individuals employed in the production of digital media content on
36 which the tax imposed by the "New Jersey Gross Income Tax Act,"
37 N.J.S.54A:1-1 et seq. has been paid or is due, and any wages and
38 salaries of individuals employed in the production of digital media
39 content that are not subject to tax under the "New Jersey Gross
40 Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
41 reciprocity agreement with another state; ¹[and]¹ the costs of
42 computer software and hardware, data processing, visualization
43 technologies, sound synchronization, editing, and the rental of
44 facilities and equipment ¹; and the costs for post-production,
45 including, but not limited to: editing, sound design, visual effects,
46 animation, music composition, color grading, and mastering¹.
47 Payment made to a loan out company or to an independent

1 contractor shall not be deemed a "qualified digital media content
2 production expense" unless the payment is made in connection with
3 a trade, profession, or occupation carried on in this State or for the
4 rendition of personal services performed in this State and the
5 taxpayer has made the withholding required pursuant to subsection
6 g. of this section. ²**["Qualified"]** For applications submitted prior to
7 the effective date of P.L. , c. (pending before the Legislature as
8 this bill), "qualified² digital media content production expenses"
9 shall not include expenses incurred in marketing, promotion, or
10 advertising digital media ²**[¹]; costs incurred for the design,**
11 maintenance, and hosting of websites; costs incurred in digital
12 search engine optimization or pay-per-click campaigns;¹² or other
13 costs not directly related to the production of digital media content.
14 ²For applications submitted after the effective date of P.L. ,
15 c. (pending before the Legislature as this bill), "qualified digital
16 media content production expenses" shall not include expenses
17 incurred in marketing, promotion, or advertising digital media; costs
18 incurred for the design, maintenance, and hosting of websites; or other
19 costs not directly related to the production of digital media content.²
20 Costs related to the acquisition or licensing of digital media content
21 by the taxpayer for distribution or incorporation into the taxpayer's
22 digital media content ¹, or any costs included in an application
23 submitted to the authority,¹ shall not be deemed "qualified digital
24 media content production expenses."

25 "Qualified film production expenses" means an expense incurred
26 in New Jersey for the production of a film including pre-production
27 costs and post-production costs incurred in New Jersey. "Qualified
28 film production expenses" shall include but not be limited to: the
29 wages and salaries of individuals employed in the production of a
30 film on which the tax imposed by the "New Jersey Gross Income
31 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due, and any
32 wages and salaries of individuals employed in the production of a
33 film that are not subject to tax under the "New Jersey Gross Income
34 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
35 reciprocity agreement with another state; and the costs for tangible
36 personal property used, and services performed, directly and
37 exclusively in the production of a film, such as expenditures for
38 film production facilities, props, makeup, wardrobe, film
39 processing, camera, sound recording, set construction, lighting,
40 shooting, editing, and meals. Payment made to a loan out company
41 or to an independent contractor shall not be deemed a "qualified
42 film production expense" unless the payment is made in connection
43 with a trade, profession, or occupation carried on in this State or for
44 the rendition of personal services performed in this State and the
45 taxpayer has made the withholding required pursuant to subsection
46 g. of this section. Payment made to a homeowner, who is otherwise
47 not a vendor authorized to do business in New Jersey, for the use of

1 a personal residence for filming shall not be deemed a "qualified
2 film production expense" unless the taxpayer has made the
3 withholding required by subsection g. of this section. For the
4 purposes of this definition, wages and salaries of individuals
5 employed in the production of a film shall include deferred
6 compensation, including advances on deferred compensation,
7 incurred by New Jersey studio partners, provided the New Jersey
8 studio partner files a supplemental report prepared by an
9 independent certified public accountant, pursuant to agreed-upon
10 procedures prescribed by the authority and the director, no later
11 than two years after the date on which the production concludes.
12 "Qualified film production expenses" shall not include: expenses
13 incurred in marketing or advertising a film; ¹~~and~~ expenses for a
14 story, script, or ^{2,2} scenario to be used for a film; for taxpayers other
15 than New Jersey studio partners and New Jersey film-lease production
16 companies,¹ payment in excess of ¹~~[\$500,000]~~ \$750,000¹ to a
17 highly compensated individual for ¹~~costs for a story, script, or~~
18 ~~scenario used in the production of a film and~~¹ wages or salaries or
19 other compensation for writers, directors, including music directors,
20 producers, and performers, other than background actors with no
21 scripted lines ¹~~;~~ ; and for New Jersey studio partners and New
22 Jersey film-lease production companies, payment in excess of
23 \$500,000 to a highly compensated individual for wages or salaries
24 or other compensation for writers, directors, including music
25 directors, producers, and performers, other than background actors
26 with no scripted lines,¹ except as follows:

27 (1) for a New Jersey studio partner that incurs less than
28 ¹~~[\$50,000,000]~~ \$25,000,000¹ in qualified film production expenses
29 in the State, in excess of amounts paid to highly compensated
30 individuals, an additional amount, not to exceed \$18,000,000, of the
31 wages or salaries or other compensation for writers, directors,
32 including music directors, producers, and performers, other than
33 background actors with no scripted lines, shall constitute qualified
34 film production expenses; and

35 (2) (Deleted by amendment, P.L.2023, c.97)

36 (3) (Deleted by amendment, P.L.2023, c.97)

37 (4) for a New Jersey studio partner that incurs ¹~~[\$50,000,000]~~
38 \$25,000,000¹ or more in qualified film production expenses in the
39 State, in excess of amounts paid to highly compensated individuals,
40 an additional amount, not to exceed \$72,000,000, of the wages or
41 salaries or other compensation for writers, directors, including
42 music directors, producers, and performers, other than background
43 actors with no scripted lines, shall constitute qualified film
44 production expenses; and

45 (5) for a New Jersey film-lease production company that incurs
46 less than \$50,000,000 in qualified film production expenses in the
47 State, in excess of amounts paid to highly compensated individuals,

1 an additional amount, not to exceed \$15,000,000, of the wages or
2 salaries or other compensation for writers, directors, including
3 music directors, producers, and performers, other than background
4 actors with no scripted lines, shall constitute qualified film
5 production expenses; and

6 (6) for a New Jersey film-lease production company that incurs
7 \$50,000,000 or more in qualified film production expenses in the
8 State, in excess of amounts paid to highly compensated individuals,
9 an additional amount, not to exceed \$60,000,000, of the wages or
10 salaries or other compensation for writers, directors, including
11 music directors, producers, and performers, other than background
12 actors with no scripted lines, shall constitute qualified film
13 production expenses.

14 "Total digital media content production expenses" means costs
15 for services performed and property used or consumed in the
16 production of digital media content.

17 "Total film production expenses" means costs for services
18 performed and tangible personal property used or consumed in the
19 production of a film.

20 i. A business that is not a "taxpayer" as defined and used in the
21 "Corporation Business Tax Act (1945)," P.L.1945, c.162
22 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
23 under this section, but is a business entity that is classified as a
24 partnership for federal income tax purposes and is ultimately owned
25 by a business entity that is a "corporation" as defined in subsection
26 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
27 liability company formed under the "Revised Uniform Limited
28 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
29 qualified to do business in this State as a foreign limited liability
30 company, with one member, and is wholly owned by the business
31 entity that is a "corporation" as defined in subsection (c) of section
32 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
33 requirements of this section, shall be considered an eligible
34 applicant and "taxpayer" as that term is used in this section.

35 (cf: P.L.2023, c.97, s.5)

36

37 ¹~~2.~~ ^{3.} Section 2 of P.L.2018, c.56 (C.54A:4-12b) is
38 amended to read as follows:

39 2. a. (1) A taxpayer, upon approval of an application to the
40 authority and the director, shall be allowed a credit against the tax
41 otherwise due for the taxable year under the "New Jersey Gross
42 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to, in
43 the case of a taxpayer designated as a New Jersey studio partner or
44 New Jersey film-lease production company, 40 percent, and in the
45 case of a taxpayer other than a New Jersey studio partner or New
46 Jersey film-lease production company, 35 percent, of the qualified
47 film production expenses of the taxpayer during a taxable year

1 commencing on or after July 1, 2018 but before July 1, 2039,
2 provided that:

3 (a) at least 60 percent of the total film production expenses,
4 exclusive of post-production costs, of the taxpayer are incurred for
5 services performed, and goods purchased through vendors
6 authorized to do business, in New Jersey, or the qualified film
7 production expenses of the taxpayer during the taxable year for
8 services performed, and goods purchased, through vendors
9 authorized to do business in New Jersey, exceed \$1,000,000 per
10 production¹; and for reality shows, at least 60 percent of the total
11 film production expenses, exclusive of post-production costs, of the
12 taxpayer are incurred for services performed, and goods purchased
13 through vendors authorized to do business^{2, 2} in New Jersey, and
14 the qualified film production expenses of the taxpayer during the
15 privilege period for services performed, and goods purchased,
16 through vendors authorized to do business in New Jersey, exceed
17 \$1,000,000 per production¹;

18 (b) principal photography of the film commences within 180
19 days from the date of the original application for the tax credit;

20 (c) the film includes, when determined to be appropriate by the
21 commission, at no cost to the State, marketing materials promoting
22 this State as a film and entertainment production destination, which
23 materials shall include placement of a "Filmed in New Jersey" or
24 "Produced in New Jersey" statement, or an appropriate logo
25 approved by the commission, in the end credits of the film;

26 (d) the taxpayer submits a tax credit verification report prepared
27 by an independent certified public accountant licensed in this State
28 in accordance with subsection g. of this section; and

29 (e) the taxpayer complies with the withholding requirements
30 provided for payments to loan out companies and independent
31 contractors in accordance with subsection h. of this section.

32 (2) Notwithstanding the provisions of paragraph (1) of
33 subsection a. of this section to the contrary, the tax credit allowed
34 pursuant to this subsection against the tax otherwise due for the
35 taxable year under the "New Jersey Gross Income Tax Act,"
36 N.J.S.54A:1-1 et seq., shall be in an amount equal to, in the case of
37 a taxpayer designated as a New Jersey studio partner or New Jersey
38 film-lease production company, 35 percent, and in the case of a
39 taxpayer other than a New Jersey studio partner or New Jersey film-
40 lease production company, 30 percent, of the qualified film
41 production expenses of the taxpayer during a taxable year that are
42 incurred for services performed and tangible personal property
43 purchased for use at a sound stage or other location that is located
44 in the State within a 30-mile radius of the intersection of Eighth
45 Avenue/Central Park West, Broadway, and West 59th Street/Central
46 Park South, New York, New York.

47 b. (1) A taxpayer, upon approval of an application to the
48 authority and the director, shall be allowed a credit against the tax

1 otherwise due for the taxable year under the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30
3 percent of the qualified digital media content production expenses
4 of the taxpayer during a taxable year commencing on or after July
5 1, 2018 but before July 1, 2039, provided that:

6 (a) at least ¹[\$2,000,000] ²[\$4,000,000¹] \$2,000,000² of the
7 total digital media content production expenses of the taxpayer are
8 incurred for services performed, and goods purchased through
9 vendors authorized to do business, in New Jersey ²; provided,
10 however, that for applications submitted after the effective date of
11 P.L. , c. (pending before the Legislature as this bill), qualified
12 wage and salary payments made to full-time employees working on
13 digital media shall not be deemed an expense incurred for services
14 performed²;

15 (b) at least 50 percent of the qualified digital media content
16 production expenses of the taxpayer are for wages and salaries paid
17 to full-time or full-time equivalent employees in New Jersey;

18 (c) the taxpayer submits a tax credit verification report prepared
19 by an independent certified public accountant licensed in this State
20 in accordance with subsection g. of this section; and

21 (d) the taxpayer complies with the withholding requirements
22 provided for payments to loan out companies and independent
23 contractors in accordance with subsection h. of this section.

24 (2) Notwithstanding the provisions of paragraph (1) of
25 subsection b. of this section to the contrary, the tax credit allowed
26 pursuant to this subsection against the tax otherwise due for the
27 taxable year under the "New Jersey Gross Income Tax Act,"
28 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent for
29 the qualified digital media content production expenses of the
30 taxpayer during a taxable year that are incurred for services
31 performed and tangible personal property purchased through
32 vendors whose primary place of business is located in Atlantic,
33 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
34 or Salem County.

35 ²(3) Notwithstanding the provisions of paragraph (1) of this
36 subsection to the contrary, the tax credit allowed pursuant to this
37 subsection against the tax otherwise due for the taxable year under the
38 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in
39 an amount equal to 40 percent of the qualified digital media content
40 production expenses of the taxpayer during a taxable year that are
41 incurred for post-production services including visual effects services
42 performed at a New Jersey film-lease production facility or that are
43 incurred by a New Jersey studio partner, provided that:

44 (a) at least \$500,000 of the qualified digital media content
45 production expenses of the taxpayer are incurred for post-production
46 services including visual effects services performed at a New Jersey
47 film-lease production facility or are incurred by a New Jersey studio
48 partner;

1 **(b) the taxpayer submits a tax credit verification report prepared by**
2 **an independent certified public accountant licensed in this State in**
3 **accordance with subsection g. of this section; and**

4 **(c) the taxpayer complies with the withholding requirements**
5 **provided for payments to loan out companies and independent**
6 **contractors in accordance with subsection h. of this section.**

7 **(4) Notwithstanding the provisions of paragraph (1) of this**
8 **subsection to the contrary, the tax credit allowed pursuant to this**
9 **subsection against the tax otherwise due for the taxable year under the**
10 **"New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in**
11 **an amount equal to 35 percent of the qualified digital media content**
12 **production expenses of the taxpayer during a taxable year that are**
13 **incurred for post-production services including visual effects services**
14 **performed by a qualified independent post-production company,**
15 **provided that:**

16 **(a) at least \$500,000 of the qualified digital media content**
17 **production expenses of the taxpayer are incurred for post-production**
18 **services including visual effects services performed by a qualified**
19 **independent post-production company;**

20 **(b) the taxpayer submits a tax credit verification report prepared by**
21 **an independent certified public accountant licensed in this State in**
22 **accordance with subsection g. of this section; and**

23 **(c) the taxpayer complies with the withholding requirements**
24 **provided for payments to loan out companies and independent**
25 **contractors in accordance with subsection h. of this section.**²

26 c. No tax credit shall be allowed pursuant to this section for
27 any costs or expenses included in the calculation of any other tax
28 credit or exemption granted pursuant to a claim made on a tax
29 return filed with the director, or included in the calculation of an
30 award of business assistance or incentive, for a period of time that
31 coincides with the taxable year for which a tax credit authorized
32 pursuant to this section is allowed. The order of priority in which
33 the tax credit allowed pursuant to this section and any other tax
34 credits allowed by law may be taken shall be as prescribed by the
35 director. The amount of the tax credit applied under this section
36 against the tax otherwise due under the "New Jersey Gross Income
37 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
38 together with any other payments, credits, deductions, and
39 adjustments allowed by law shall not reduce the tax liability of the
40 taxpayer to an amount less than zero. The amount of the tax credit
41 otherwise allowable under this section which cannot be applied for
42 the taxable year due to the limitations of this subsection or under
43 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
44 necessary, to the seven taxable years following the taxable year for
45 which the tax credit was allowed.

46 d. (1) A business entity that is classified as a partnership for
47 federal income tax purposes shall not be allowed a tax credit
48 pursuant to this section directly, but the amount of tax credit of a

1 taxpayer in respect of a distributive share of entity income, shall be
2 determined by allocating to the taxpayer that proportion of the tax
3 credit acquired by the entity that is equal to the taxpayer's share,
4 whether or not distributed, of the total distributive income or gain
5 of the entity for its taxable year ending within or with the taxpayer's
6 taxable year.

7 (2) A New Jersey S Corporation shall not be allowed a tax credit
8 pursuant to this section directly, but the amount of tax credit of a
9 taxpayer in respect of a pro rata share of S Corporation income,
10 shall be determined by allocating to the taxpayer that proportion of
11 the tax credit acquired by the New Jersey S Corporation that is
12 equal to the taxpayer's share, whether or not distributed, of the total
13 pro rata share of S Corporation income of the New Jersey S
14 Corporation for its privilege period ending within or with the
15 taxpayer's taxable year.

16 A business entity that is not a gross income "taxpayer" as defined
17 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
18 et seq., and therefore is not directly allowed a credit under this
19 section, but otherwise meets all the other requirements of this
20 section, shall be considered an eligible applicant and "taxpayer" as
21 that term is used in this section, and the application of an otherwise
22 allowed credit amount shall be distributed to appropriate gross
23 income taxpayers pursuant to the other requirements of this
24 subsection.

25 e. A taxpayer, with an application for a tax credit provided for
26 in subsection a. or subsection b. of this section, may apply to the
27 authority and the director for a tax credit transfer certificate in lieu
28 of the taxpayer being allowed any amount of the tax credit against
29 the tax liability of the taxpayer. The tax credit transfer certificate,
30 upon receipt thereof by the taxpayer from the authority and the
31 director, may be sold or assigned, in full or in part, to any other
32 taxpayer that may have a tax liability under the "New Jersey Gross
33 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
34 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
35 exchange for private financial assistance to be provided by the
36 purchaser or assignee to the taxpayer that has applied for and been
37 granted the tax credit. The tax credit transfer certificate provided to
38 the taxpayer shall include a statement waiving the taxpayer's right
39 to claim that amount of the tax credit against the tax imposed
40 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
41 sell or assign. The sale or assignment of any amount of a tax credit
42 transfer certificate allowed under this section shall not be
43 exchanged for consideration received by the taxpayer of less than
44 75 percent of the transferred tax credit amount. Any amount of a
45 tax credit transfer certificate used by a purchaser or assignee against
46 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
47 same limitations and conditions that apply to the use of a tax credit
48 pursuant to subsections c. and d. of this section. Any amount of a

1 tax credit transfer certificate obtained by a purchaser or assignee
2 under subsection e. of this section may be applied against the
3 purchaser's or assignee's tax liability under P.L.1945, c.162
4 (C.54:10A-1 et seq.) and shall be subject to the same limitations
5 and conditions that apply to the use of a credit pursuant to
6 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

7 f. (1) The value of tax credits, including tax credits allowed
8 through the granting of tax credit transfer certificates, approved by
9 the director and the authority pursuant to subsection a. of this
10 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
11 (C.54:10A-5.39b) ^{2,2} ¹ and except as provided in section 98 of
12 P.L.2020, c.156 (C.34:1B-362)¹ ^{2,2} to taxpayers, other than New
13 Jersey studio partners and New Jersey film-lease production
14 companies, shall not exceed a cumulative total of \$100,000,000 in
15 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
16 2040 to apply against the tax imposed pursuant to the "New Jersey
17 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to
18 section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the
19 limitation on the value of tax credits approved by the director for
20 New Jersey film-lease production companies and the limitation on
21 the value of tax credits approved by the director for other taxpayers
22 imposed by this paragraph, and except as provided in section 98 of
23 P.L.2020, c.156 (C.34:1B-362), the value of tax credits, including
24 tax credits allowed through the granting of tax credit transfer
25 certificates, approved by the director and the authority pursuant to
26 subsection a. of this section and pursuant to subsection a. of section
27 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners
28 shall not exceed a cumulative total of \$100,000,000 in fiscal year
29 2021 and in each fiscal year thereafter prior to fiscal year 2024, and
30 shall not exceed a cumulative total of \$150,000,000 in fiscal year
31 2024 and in each fiscal year thereafter prior to fiscal year 2040, to
32 apply against the tax imposed pursuant to section 5 of P.L.1945,
33 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New
34 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in
35 fiscal year 2023, in addition to the cumulative total tax credits made
36 available for New Jersey studio partners pursuant to this paragraph
37 and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362),
38 up to an additional \$400,000,000 may be made available annually,
39 in the discretion of the authority, to New Jersey studio partners for
40 the award of tax credits, including tax credits allowed through the
41 granting of tax credit transfer certificates, pursuant to subsection a.
42 of this section and subsection a. of section 1 of P.L.2018, c.56
43 (C.54:10A-5.39b), from the funds made available pursuant to
44 subparagraph (i) of paragraph (1) of subsection b. of section 98 of
45 P.L.2020, c.156 (C.34:1B-362). In addition to the limitation on the
46 value of tax credits approved by the director for New Jersey studio
47 partners and the limitation on the value of tax credits approved by
48 the director for other taxpayers imposed by this paragraph, and

1 except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362),
2 the value of tax credits, including tax credits allowed through the
3 granting of tax credit transfer certificates, approved by the director
4 and the authority pursuant to subsection a. of this section and
5 pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-
6 5.39b) to New Jersey film-lease production companies shall not
7 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
8 in each fiscal year thereafter prior to fiscal year 2024, and shall not
9 exceed a cumulative total of \$150,000,000 in fiscal year 2024 and
10 in each fiscal year thereafter prior to fiscal year 2040, to apply
11 against the tax imposed pursuant to section 5 of P.L.1945, c.162
12 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
13 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
14 year 2023, in addition to the cumulative total tax credits made
15 available for New Jersey film-lease production companies pursuant
16 to this paragraph and subsection d. of section 98 of P.L.2020, c.156
17 (C.34:1B-362), up to an additional \$250,000,000 may be made
18 available annually, in the discretion of the authority, to New Jersey
19 film-lease production companies for the award of tax credits,
20 including tax credits allowed through the granting of tax credit
21 transfer certificates, pursuant to subsection a. of this section and
22 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from
23 the funds made available pursuant to subparagraph (i) of paragraph
24 (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362).
25 Approvals made to New Jersey studio partners and New Jersey
26 film-lease production companies shall be subject to award
27 agreements with the authority detailing obligations of the awardee
28 and outcomes relating to events of default, including, but not
29 limited to, recapture, forfeiture, and termination. Notwithstanding
30 any provision of this subsection or other law to the contrary, if a
31 film production company designated as a New Jersey studio partner
32 ceases to qualify for its designation as a New Jersey film studio
33 partner and becomes designated as a New Jersey film-lease partner
34 facility, the authority shall reduce the cumulative total amount of
35 tax credits, including tax credits allowed through the granting of tax
36 credit transfer certificates, made available to New Jersey studio
37 partners in each fiscal year and shall increase the cumulative total
38 amount of tax credits permitted to be approved for New Jersey film-
39 lease production companies in each fiscal year by a corresponding
40 amount pursuant to a formula established in rules adopted by the
41 authority which shall consider the volume of applications submitted
42 by New Jersey studio partners and New Jersey film-lease
43 production facilities, the cumulative total amount of tax credits
44 allowed to New Jersey studio partners and New Jersey film-lease
45 production facilities in the prior fiscal year, the total square footage
46 of facility space occupied in the State by New Jersey studio partners
47 and New Jersey film-lease production facilities, and any other
48 factors that the authority deems appropriate. Award agreements

1 between the authority and New Jersey studio partners shall include
2 a requirement for each New Jersey studio partner to occupy the
3 production facility developed, purchased, or leased as a condition of
4 designation as a New Jersey studio partner for the duration of the
5 commitment period. If a New Jersey studio partner fails to occupy
6 the production facility developed, purchased, or leased as a
7 condition of designation as a New Jersey studio partner for the
8 duration of the commitment period or otherwise fails to satisfy the
9 conditions for designation as a New Jersey studio partner, the
10 authority shall recapture the portion of the tax credit that was only
11 available to the taxpayer by virtue of the taxpayer's designation as a
12 New Jersey studio partner, and all films for which an initial
13 approval has been given, but for which the authority has not
14 approved final documentation, shall terminate. The authority shall
15 establish a non-binding, administrative pre-certification process for
16 potentially eligible projects.

17 If the cumulative total amount of tax credits, and tax credit
18 transfer certificates, allowed to taxpayers for taxable years or
19 privilege periods commencing during a single fiscal year under
20 subsection a. of this section and subsection a. of section 1 of
21 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
22 available in that fiscal year, then taxpayers who have first applied
23 for and have not been allowed a tax credit or tax credit transfer
24 certificate amount for that reason shall have their applications
25 approved by the authority, provided the application otherwise
26 satisfies the requirements of this section, and shall be allowed the
27 amount of tax credit or tax credit transfer certificate on the first day
28 of the next succeeding fiscal year in which tax credits and tax credit
29 transfer certificates under subsection a. of this section and
30 subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are
31 not in excess of the amount of credits available.

32 Notwithstanding any provision of this paragraph to the contrary,
33 for any fiscal year in which the amount of tax credits approved to
34 New Jersey studio partners, New Jersey film-lease production
35 companies, or taxpayers other than New Jersey studio partners and
36 New Jersey film-lease production companies pursuant to this
37 paragraph is less than the cumulative total amount of tax credits
38 permitted to be approved to each such category in that fiscal year,
39 the authority shall certify the amount of the remaining tax credits
40 available for approval to each such category in that fiscal year, and
41 shall increase the cumulative total amount of tax credits permitted
42 to be approved for New Jersey studio partners, New Jersey film-
43 lease production companies, or taxpayers other than New Jersey
44 studio partners and New Jersey film-lease production companies in
45 the subsequent fiscal year by the certified amount remaining from
46 the prior fiscal year. The authority shall also certify, for each fiscal
47 year, the amount of tax credits that were previously approved, but
48 that the taxpayer is not able to redeem or transfer to another

1 taxpayer under this section, and shall increase the cumulative total
2 amount of tax credits permitted to be approved for New Jersey
3 studio partners, New Jersey film-lease production companies, or
4 taxpayers other than New Jersey studio partners and New Jersey
5 film-lease production companies in the subsequent fiscal year by
6 the amount of tax credits previously approved for each such
7 category, but not subject to redemption or transfer.

8 (2) The value of tax credits, including tax credits allowed
9 through the granting of tax credit transfer certificates, approved by
10 the authority and the director pursuant to subsection b. of this
11 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
12 (C.54:10A-5.39b) shall not exceed a cumulative total of
13 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
14 prior to fiscal year 2040 to apply against the tax imposed pursuant
15 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
16 and the tax imposed pursuant to section 5 of P.L.1945, c.162
17 (C.54:10A-5).

18 If the total amount of tax credits and tax credit transfer
19 certificates allowed to taxpayers for taxable years or privilege
20 periods commencing during a single fiscal year under subsection b.
21 of this section and subsection b. of section 1 of P.L.2018, c.56
22 (C.54:10A-5.39b) exceeds the amount of tax credits available in
23 that year, then taxpayers who have first applied for and have not
24 been allowed a tax credit or tax credit transfer certificate amount for
25 that reason shall ¹be allowed, in the order in which they have
26 submitted an application, have their applications approved by the
27 authority, provided the application otherwise satisfies the
28 requirements of this section, and shall be allowed¹ the amount of
29 tax credit or tax credit transfer certificate on the first day of the next
30 succeeding fiscal year in which tax credits and tax credit transfer
31 certificates under subsection b. of this section and subsection b. of
32 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
33 the amount of credits available.

34 ²Beginning in the fiscal year beginning July 1, 2024, in addition to
35 the total amount of tax credits and tax credit transfer certificates
36 allowed to taxpayers for privilege periods or taxable years
37 commencing during a single fiscal year under subsection b. of this
38 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
39 5.39b), up to an additional \$100,000,000 may be made available, in the
40 discretion of the authority for the award of tax credits, including tax
41 credits allowed through the granting of tax credit transfer certificates,
42 pursuant to subsection b. of this section and subsection b. of section 1
43 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available to
44 taxpayers other than New Jersey studio partners and New Jersey film-
45 lease production companies pursuant to paragraph (3) of subsection d.
46 of section 98 of P.L.2020, c.156 (C.34:1B-362).²

47 Notwithstanding any provision of this paragraph to the contrary,
48 for any fiscal year in which the amount of tax credits approved

1 pursuant to this paragraph is less than the cumulative total amount
2 of tax credits permitted to be approved in that fiscal year, the
3 authority shall certify the amount of the remaining tax credits
4 available for approval in that fiscal year, and shall increase the
5 cumulative total amount of tax credits permitted to be approved in
6 the subsequent fiscal year by the certified amount remaining from
7 the prior fiscal year. The authority shall also certify, for each fiscal
8 year, the amount of tax credits that were previously approved, but
9 that the taxpayer is not able to redeem or transfer to another
10 taxpayer under this section, and shall increase the cumulative total
11 amount of tax credits permitted to be approved in the subsequent
12 fiscal year by the amount of tax credits previously approved, but not
13 subject to redemption or transfer.

14 g. A taxpayer shall submit to the authority and the director a
15 report prepared by an independent certified public accountant
16 licensed in this State to verify the taxpayer's tax credit claim
17 following the completion of the production. A New Jersey studio
18 partner that makes deferred compensation payments based on work
19 or services provided on a production may file a supplemental report
20 prepared by an independent certified public accountant, pursuant to
21 agreed-upon procedures prescribed by the authority and the
22 director, no later than two years after the date on which the
23 production concludes. The deferred compensation payments shall
24 constitute qualified film production expenses as if the expenses
25 were incurred at the time of production, provided there are credits
26 available and subject to the authority's review. The report shall be
27 prepared by the independent certified public accountant pursuant to
28 agreed-upon procedures prescribed by the authority and the
29 director, and shall include such information and documentation as
30 shall be determined to be necessary by the authority and the director
31 to substantiate the qualified film production expenses or the
32 qualified digital media content production expenses of the taxpayer.
33 A single report with attachments deemed necessary by the authority
34 shall be submitted electronically. Upon receipt of the report, the
35 authority and the director shall review the findings of the
36 independent certified public accountant's report, and shall make a
37 determination as to the qualified film production expenses or the
38 qualified digital media content production expenses of the taxpayer.
39 The authority's and the director's review shall include, but shall not
40 be limited to: a review of all non-payroll qualified film production
41 expense items and non-payroll digital media content production
42 expense items over \$20,000; a review of 100 randomly selected
43 non-payroll qualified film production expense items and non-
44 payroll digital media content production expense items that are
45 greater than \$2,500, but less than \$20,000; a review of 100
46 randomly selected non-payroll qualified film production expense
47 items and non-payroll digital media content production expense
48 items that are less than \$2,500; a review of the qualified wages for

1 the 15 employees, independent contractors, or loan-out companies
2 with the highest qualified wages; and a review of the qualified
3 wages for 35 randomly selected employees, independent
4 contractors, or loan-out companies with qualified wages other than
5 the 15 employees, independent contractors, or loan-out companies
6 with the highest qualified wages. The taxpayer's qualified film
7 production expenses and digital media content production expenses
8 shall be adjusted based on any discrepancies identified for the
9 reviewed non-payroll qualified film production expense items, non-
10 payroll digital media content production expense items and
11 qualified wages. The taxpayer's qualified film production expenses
12 and digital media content production expenses also shall be adjusted
13 based on the projection of any discrepancies identified based on the
14 review of randomly selected expense items or wages pursuant to
15 this subsection to the extent that the discrepancies exceed one
16 percent of the total reviewed non-payroll qualified film production
17 expense items, non-payroll digital media content production
18 expense items, or qualified wages. The determination shall be
19 provided in writing to the taxpayer, and a copy of the written
20 determination shall be included in the filing of a return that includes
21 a claim for a tax credit allowed pursuant to this section.

22 h. A taxpayer shall withhold from each payment to a loan out
23 company, to an independent contractor, or to a homeowner for the
24 use of a personal residence an amount equal to 6.37 percent of the
25 payment otherwise due. The amounts withheld shall be deemed to
26 be withholding of liability pursuant to the "New Jersey Gross
27 Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be
28 deemed to have the rights, duties, and responsibilities of an
29 employer pursuant to chapter 7 of Title 54A of the New Jersey
30 Statutes. The director shall allocate the amounts withheld for a
31 taxable year to the accounts of the individuals who are employees
32 of a loan out company in proportion to the employee's payment by
33 the loan out company in connection with a trade, profession, or
34 occupation carried on in this State or for the rendition of personal
35 services performed in this State during the taxable year. A loan out
36 company that reports its payments to employees in connection with
37 a trade, profession, or occupation carried on in this State or for the
38 rendition of personal services performed in this State during a
39 taxable year shall be relieved of its duties and responsibilities as an
40 employer pursuant to chapter 7 of Title 54A of the New Jersey
41 Statutes for the taxable year for any payments relating to the
42 payments on which the taxpayer withheld. Notwithstanding any
43 provision of this section to the contrary, qualified film production
44 expenses and qualified digital media content production expenses
45 shall include any payments made by the taxpayer to a loan out
46 company for services performed in New Jersey by individuals who
47 are employees of the loan out company and whose wages and
48 salaries are ¹subject to withholding but¹ not subject to tax under the

1 “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., due to
2 the provisions of a reciprocity agreement with another state.

3 i. As used in this section:

4 "Authority" means the New Jersey Economic Development
5 Authority.

6 "Business assistance or incentive" means "business assistance or
7 incentive" as that term is defined pursuant to section 1 of P.L.2007,
8 c.101 (C.54:50-39).

9 "Commission" means the Motion Picture and Television
10 Development Commission.

11 "Commitment period" means, for New Jersey studio partners, the
12 period beginning with the commencement of the eligibility period
13 and expiring 10 years following:

14 (1) in the case of a taxpayer developing or purchasing a
15 production facility, the issuance of a temporary certificate of
16 occupancy for the production facility developed or purchased as a
17 condition of designation as a New Jersey studio partner; or

18 (2) in the case of a taxpayer leasing a production facility,
19 commencement of the lease term for the production facility leased
20 as a condition of designation as a New Jersey studio partner.

21 "Digital media content" means ¹**any data or information that is**
22 **produced in digital form, including data or information created in**
23 **analog form but reformatted in digital form, text, graphics,**
24 **photographs, animation, sound, and video content** the following
25 digitally formatted and distributed content, which content includes
26 data or information created in analog form but ²**reformatting**
27 **reformatted** ² in digital form: animation; video games; visual effects;
28 interactive media, including virtual, augmented, or mixed reality;
29 ²content containing text, graphics, or photographs; ² sound; and
30 video¹. "Digital media content" shall not mean content offerings

31 generated by the end user (including postings on electronic bulletin
32 boards and chat rooms); content offerings comprised primarily of
33 local news, events, weather, or local market reports; public service
34 content; electronic commerce platforms (such as retail and
35 wholesale websites); websites or content offerings that contain
36 obscene material as defined pursuant to N.J.S.2C:34-2 and
37 N.J.S.2C:34-3; websites or content that are produced or maintained
38 primarily for private, industrial, corporate, or institutional purposes;
39 or digital media content acquired or licensed by the taxpayer for
40 distribution or incorporation into the taxpayer's digital media
41 content.

42 "Eligibility period" means, with respect to New Jersey studio
43 partners, the period in which a New Jersey studio partner may claim
44 a tax credit for qualified film production expenses, including
45 expenses that would not constitute qualified film production
46 expenses but for the taxpayer's designation as a New Jersey studio
47 partner, beginning the earlier of the commencement of the principal

1 photography for the New Jersey studio partner's initial film in New
2 Jersey or, in the case of a taxpayer developing or purchasing a
3 production facility, at the issuance of a temporary certificate of
4 occupancy for the production facility developed or purchased as a
5 condition of designation as a New Jersey studio partner and, in the
6 case of a taxpayer leasing a production facility, at the
7 commencement of the lease term for the production facility leased
8 as a condition of designation as a New Jersey studio partner, and
9 extending thereafter for a term of not more than 10 years.

10 "Film" means a feature film, a television series, or a television
11 show of 22 minutes or more in length, intended for a national
12 audience, or a television series or a television show of 22 minutes
13 or more in length intended for a national or regional audience,
14 including, but not limited to, a game show, award show, talk show,
15 competition or variety show filmed before a live audience, or other
16 gala event filmed and produced at a nonprofit arts and cultural
17 venue receiving State funding. "Film" shall not include a
18 production featuring news, current events, weather, and market
19 reports or public programming, sports event, ¹**[or reality show,]**¹ or
20 a production that solicits funds, a production containing obscene
21 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
22 production primarily for private, industrial, corporate, or
23 institutional purposes ¹, or a reality show, except if the production
24 company ²[of the reality show]² has obtained a minimum ²[10]
25 six² episode order from, and is commissioned and scheduled to
26 premiere on, a major linear network or streaming service¹. "Film"
27 shall not include an award show or other gala event that is not
28 filmed and produced at a nonprofit arts and cultural venue receiving
29 State funding.

30 "Full-time or full-time equivalent employee" means an individual
31 employed by the taxpayer for consideration for at least 35 hours a
32 week, or who renders any other standard of service generally
33 accepted by custom or practice as full-time or full-time equivalent
34 employment, whose wages are subject to withholding as provided in
35 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
36 whose wages are not subject to tax under the "New Jersey Gross
37 Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
38 reciprocity agreement with another state, regardless of whether the
39 individual is a resident or nonresident taxpayer, or who is a partner
40 of a taxpayer, who works for the partnership for at least 35 hours a
41 week, or who renders any other standard of service generally
42 accepted by custom or practice as full-time or full-time equivalent
43 employment, and whose distributive share of income, gain, loss, or
44 deduction, or whose guaranteed payments, or any combination
45 thereof, is subject to the payment of estimated taxes, as provided in
46 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
47 "Full-time or full-time equivalent employee" shall not include an

1 individual who works as an independent contractor or on a
2 consulting basis for the taxpayer.

3 "Highly compensated individual" means ², for New Jersey studio
4 partners and New Jersey film-lease production companies,² an
5 individual who directly or indirectly receives compensation in
6 excess of \$500,000 for the performance of services used directly in
7 a production ²and for taxpayers other than New Jersey studio partners
8 and New Jersey film-lease production companies, an individual who
9 directly or indirectly receives compensation in excess of \$750,000 for
10 the performance of services used directly in a production². An
11 individual receives compensation indirectly when the taxpayer pays
12 a loan out company that, in turn, pays the individual for the
13 performance of services.

14 "Incurred in New Jersey" means, for any application submitted
15 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
16 pursuant to which a tax credit has not been allowed prior to the
17 effective date of P.L.2021, c.160, service performed within New
18 Jersey and tangible personal property used or consumed in New
19 Jersey. A service is performed in New Jersey to the extent that the
20 individual performing the service is physically located in New
21 Jersey while performing the service. Notwithstanding where the
22 property is delivered or acquired, rented tangible property is used or
23 consumed in New Jersey to the extent that the property is located in
24 New Jersey during its use or consumption and is rented from a
25 vendor authorized to do business in New Jersey ¹**[or]** and¹ the film
26 production company provides to the authority the vendor's
27 information in a form and manner prescribed by the authority.
28 Purchased tangible property is not used and consumed in New
29 Jersey unless it is purchased from a vendor authorized to do
30 business in New Jersey and is delivered to or acquired within New
31 Jersey; provided, however, that if a production is also located in
32 another jurisdiction, the purchased tangible property is used and
33 consumed in New Jersey ¹, to the extent that the property is located
34 in New Jersey during its use or consumption,¹ if the acquisition and
35 delivery of purchased tangible property is located in either New
36 Jersey or another jurisdiction where the production takes place.
37 Payment made to a homeowner for the use of a personal residence
38 located in the State for filming shall be deemed an expense incurred
39 in New Jersey notwithstanding the fact that such homeowner is not
40 a vendor authorized to do business in New Jersey, provided the
41 taxpayer has made the withholding required by subsection h. of this
42 section.

43 "Independent contractor" means an individual treated as an
44 independent contractor for federal and State tax purposes who is
45 contracted with by the taxpayer for the performance of services
46 used directly in a production.

1 ²"Independent post-production company" means a corporation,
2 partnership, limited liability company, or other entity principally
3 engaged in the provision of post-production, including visual effects
4 services for a film or films described in this section including a film or
5 films that do not satisfy the requirements of subparagraph (a) of
6 paragraph (1) of subsection a. of this section, which entity is not a
7 publicly-traded entity or for which entity no more than five percent of
8 the beneficial ownership is owned directly or indirectly by a publicly-
9 traded entity.²

10 "Loan out company" means ²: for applications submitted prior to
11 the effective date of P.L. , c. (pending before the Legislature as
12 this bill), a personal service corporation or other entity with which a
13 taxpayer contracts for the provision of specified individual personnel,
14 such as artists, crew, actors, producers, or directors for the
15 performance of services used directly in a production; and, for
16 applications submitted on or after the effective date of P.L. ,
17 c. (pending before the Legislature as this bill),² a personal service
18 corporation or other entity ^{2,2} ¹authorized to do business in New
19 Jersey¹ ^{2,2} that is contracted with by the taxpayer to provide
20 specified individual personnel, such as artists, crew, actors,
21 producers, or directors for the performance of services used directly
22 in a production. "Loan out company" shall not include entities
23 contracted with by the taxpayer to provide goods or ancillary
24 contractor services such as catering, construction, trailers,
25 equipment, or transportation.

26 "New Jersey film-lease partner facility" means:

27 (1) (a) a production facility in New Jersey whose owner or
28 developer has made the commitment to build, lease, or operate a
29 production facility of 250,000 square feet or more, including a
30 sound stage and production support space, such as production
31 offices, mill space, or a backlot, for a period of five or more
32 successive years, as evidenced by site plan approval or an executed
33 redevelopment agreement with a governmental entity for the
34 purpose of developing a production facility of 250,000 square feet
35 or more;

36 (b) a production facility built, leased, or operated by a
37 production company designated as a New Jersey studio partner and
38 which the New Jersey studio partner no longer occupies; or

39 (c) a portion of a production facility owned by a New Jersey
40 studio partner that is in excess of the space being utilized by the
41 New Jersey studio partner; provided the spaces utilized and
42 unutilized by the New Jersey studio partner both exceed 250,000
43 square feet.

44 (2) A film production company that executes at least a 10-year
45 lease for 250,000 square feet or more from a New Jersey film-lease
46 partner facility shall be eligible to be designated as a New Jersey

1 studio partner, provided the film production company otherwise
2 complies with the eligibility requirements of the program.

3 (3) Except for a production facility, or portion thereof, owned,
4 built, leased, or operated by a film production company designated
5 as a New Jersey studio partner by the authority on or before the
6 181st day next following the effective date of P.L.2023, c.97
7 (C.34:1B-4.2 et al.), in order for a production facility to be
8 designated as a New Jersey film-lease partner facility, the owner or
9 developer shall accept the acquisition by the authority, at the
10 authority's discretion, of equity in the production facility, on
11 commercially reasonable and customary terms and conditions
12 determined by the authority and the New Jersey film-lease partner
13 facility. A film production facility may receive its film-lease
14 partner facility designation prior to executing an equity agreement
15 with the authority provided final approval of such agreement occurs
16 on or before the date on which production commences at the
17 facility.

18 (4) No more than three New Jersey production facilities may be
19 designated as a New Jersey film-lease partner facility; provided,
20 however, this limitation shall not apply to production facilities, or
21 portions thereof, owned, built, leased, or operated by a film
22 production company designated as a New Jersey studio partner.

23 "New Jersey film-lease production company" means a taxpayer,
24 including any taxpayer that is a member of a combined group under
25 section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in
26 which the film-lease production company has a material ownership
27 interest and material operational role in the production, that
28 otherwise complies with the eligibility requirements of the Film and
29 Digital Media Tax Credit Program and has made a commitment to
30 lease or otherwise occupy production space in a New Jersey film-
31 lease partner facility and who will shoot at least 50 percent of the
32 total principal photography shoot days of the project within New
33 Jersey ²~~and who will shoot~~ . In addition to the forgoing, if a New
34 Jersey film-lease partner facility has received a temporary or final
35 certificate of occupancy, a film production company shall satisfy one
36 of the following two criteria: (1) the film production company shoots²
37 at least 50 percent of the total principal photography shoot days
38 within New Jersey at the New Jersey film-lease partner facility²; or
39 (2) the qualified film production expenses of the project for all
40 services performed and goods used or consumed at the New Jersey
41 film-lease partner facility and payments made for the use of the New
42 Jersey film-lease partner facility equal or exceed 33 percent of the total
43 qualified film production expenses of the project. In addition to the
44 forgoing, if a New Jersey film-lease partner facility has not yet
45 received a temporary or final certificate of occupancy, a film
46 production company shall have entered into a lease or sublease with
47 the owner or developer of a New Jersey film-lease partner facility,
48 which lease or sublease is for not less than three years of occupancy of

1 the New Jersey film-lease partner facility and includes at least 36,000
2 square feet of soundstage space, and the film production company
3 shall have executed a contract with the owner or developer of the New
4 Jersey film-lease partner facility to provide production services for
5 films produced by the film production company in New Jersey prior to
6 the New Jersey film-lease partner facility's receipt of a temporary or
7 final certificate of occupancy². A "New Jersey film-lease production
8 company" may include any other member of a taxpayer's combined
9 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
10 entity principally engaged in the production of a film or other
11 commercial audiovisual product with whom a designated New
12 Jersey film-lease production company contracts to perform film
13 production services on its behalf such that the designated New
14 Jersey film-lease production company controls such film or product
15 during preproduction, production, and postproduction and all results
16 and proceeds of such services constitute, from the moment of
17 creation, "works made for hire" for the New Jersey film-lease
18 production company pursuant to the provisions of the federal
19 "Copyright Act of 1976" (17 U.S.C. s.101 et seq.).

20 ²In the event the authority determines that a New Jersey film-lease
21 production company has failed to meet the qualifications of a New
22 Jersey film-lease production company or otherwise comply with the
23 provisions of this section, the authority may recapture from that film
24 production company the portion of any tax credit that had been
25 awarded to that film production company that was only available to
26 the film production company by virtue of the film production
27 company's designation as a New Jersey film-lease production
28 company.²

29 "New Jersey studio partner" means a film production company
30 that has made a commitment to produce films or commercial
31 audiovisual products in New Jersey and has developed, purchased,
32 or executed a 10-year contract to lease a production facility of
33 250,000 square feet or more, or has executed a purchase contract
34 with a governmental authority for the purpose of developing a
35 production facility of 250,000 square feet or more within 48 months
36 from the date of designation as a New Jersey studio partner;
37 provided, however, the board, in its discretion, may extend the time
38 to execute a purchase contract for an additional 12 months.
39 Effective upon designation as a New Jersey studio partner, a film
40 production company shall be eligible for a credit pursuant to this
41 section, provided the film production company otherwise complies
42 with the eligibility requirements of Film and Digital Media Tax
43 Credit Program. In the event the authority determines that a film
44 production company has failed to meet the qualifications of a New
45 Jersey studio partner or otherwise comply with the provisions of
46 this section, the authority may rescind the New Jersey studio
47 partner designation and may recapture from that film production
48 company the portion of any tax credit that had been awarded to that

1 film production company that was only available to the film
2 production company by virtue of the film production company's
3 designation as a New Jersey studio partner. A "New Jersey studio
4 partner" may include any other member of a taxpayer's combined
5 group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated
6 entity principally engaged in the production of a film or other
7 commercial audiovisual product with whom a designated New
8 Jersey studio partner contracts to perform film production services
9 on its behalf ²or for its benefit² such that the designated New Jersey
10 studio partner ²: (1)² controls such film or product during pre-
11 production, production, and post-production ²], and all results and
12 proceeds of such services constitute, from the moment of creation,
13 "works made for hire" for the New Jersey studio partner pursuant to
14 the provisions of the federal "Copyright Act of 1976," (17 U.S.C.
15 s.101 et seq.)¹ ; or (2) controls distribution rights for the resulting film
16 or other commercial audiovisual product, provided that the New Jersey
17 studio partner contracted with the unrelated entity prior to qualified
18 film production expenses being incurred². No more than three film
19 production companies may be designated as a New Jersey studio
20 partner.

21 "Partnership" means an entity classified as a partnership for
22 federal income tax purposes.

23 "Post-production costs" means the costs of the phase of
24 production of a film that follows principal photography, in which
25 raw footage is cut and assembled into a finished film with sound
26 synchronization and visual effects.

27 "Pre-production costs" means the costs of the phase of
28 production of a film that precedes principal photography, in which a
29 detailed schedule and budget for the production is prepared, the
30 script and location is finalized, and contracts with vendors are
31 negotiated.

32 "Qualified digital media content production expenses" means an
33 expense incurred in New Jersey for the production of digital media
34 content. "Qualified digital media content production expenses"
35 shall include but not be limited to: the wages and salaries of
36 individuals employed in the production of digital media content on
37 which the tax imposed by the "New Jersey Gross Income Tax Act,"
38 N.J.S.54A:1-1 et seq. has been paid or is due, and any wages and
39 salaries of individuals employed in the production of digital media
40 content that are not subject to tax under the "New Jersey Gross
41 Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
42 reciprocity agreement with another state; ¹[and]¹ the costs of
43 computer software and hardware, data processing, visualization
44 technologies, sound synchronization, editing, and the rental of
45 facilities and equipment ¹; and the costs for post-production,
46 including, but not limited to: editing, sound design, visual effects,
47 animation, music composition, color grading, and mastering¹.

1 Payment made to a loan out company or to an independent
2 contractor shall not be deemed a "qualified digital media content
3 production expense" unless the payment is made in connection with
4 a trade, profession, or occupation carried on in this State or for the
5 rendition of personal services performed in this State and the
6 taxpayer has made the withholding required pursuant to subsection
7 h. of this section. ²**["Qualified"]** For applications submitted prior to
8 the effective date of P.L. , c. (pending before the Legislature as this
9 bill), "qualified² digital media content production expenses" shall
10 not include expenses incurred in marketing, promotion, or
11 advertising digital media ²**[¹;** costs incurred for the design,
12 maintenance, and hosting of websites; costs incurred in digital search
13 engine optimization or pay-per-click campaigns;¹]² or other costs not
14 directly related to the production of digital media content. ²For
15 applications submitted after the effective date of P.L. , c. (pending
16 before the Legislature as this bill), "qualified digital media content
17 production expenses" shall not include expenses incurred in marketing,
18 promotion, or advertising digital media; costs incurred for the design,
19 maintenance, and hosting of websites; or other costs not directly
20 related to the production of digital media content.² Costs related to
21 the acquisition or licensing of digital media content by the taxpayer
22 for distribution or incorporation into the taxpayer's digital media
23 content ¹, or any costs included in an application submitted to the
24 authority,¹ shall not be deemed "qualified digital media content
25 production expenses."

26 "Qualified film production expenses" means an expense incurred
27 in New Jersey for the production of a film including pre-production
28 costs and post-production costs incurred in New Jersey. "Qualified
29 film production expenses" shall include but not be limited to: the
30 wages and salaries of individuals employed in the production of a
31 film on which the tax imposed by the "New Jersey Gross Income
32 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due, and any
33 wages and salaries of individuals employed in the production of a
34 film that are not subject to tax under the "New Jersey Gross Income
35 Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a
36 reciprocity agreement with another state; and the costs for tangible
37 personal property used, and services performed, directly and
38 exclusively in the production of a film, such as expenditures for
39 film production facilities, props, makeup, wardrobe, film
40 processing, camera, sound recording, set construction, lighting,
41 shooting, editing, and meals. Payment made to a loan out company
42 or to an independent contractor shall not be deemed a "qualified
43 film production expense" unless the payment is made in connection
44 with a trade, profession, or occupation carried on in this State or for
45 the rendition of personal services performed in this State and the
46 taxpayer has made the withholding required by subsection h. of this
47 section. Payment made to a homeowner, who is otherwise not a

1 vendor authorized to do business in New Jersey, for the use of a
2 personal residence for filming shall not be deemed a "qualified film
3 production expense" unless the taxpayer has made the withholding
4 required by subsection h. of this section. For the purposes of this
5 definition, wages and salaries of individuals employed in the
6 production of a film shall include deferred compensation, including
7 advances on deferred compensation, incurred by New Jersey studio
8 partners, provided the New Jersey studio partner files a
9 supplemental report prepared by an independent certified public
10 accountant, pursuant to agreed-upon procedures prescribed by the
11 authority and the director, no later than two years after the date on
12 which the production concludes. "Qualified film production
13 expenses" shall not include: expenses incurred in marketing or
14 advertising a film; ¹~~and~~ expenses for a story, script or scenario to
15 be used for a film; for taxpayers other than New Jersey studio partners
16 and New Jersey film-lease production companies,¹ payment in excess
17 of ¹~~[\$500,000]~~ \$750,000¹ to a highly compensated individual for
18 ¹~~costs for a story, script, or scenario used in the production of a~~
19 ~~film and~~¹ wages or salaries or other compensation for writers,
20 directors, including music directors, producers, and performers,
21 other than background actors with no scripted lines¹, ~~and~~ ^{2, 2} for
22 New Jersey studio partners and New Jersey film-lease production
23 companies ^{2, 2} payment in excess of \$500,000 to a highly
24 compensated individual for wages or salaries or other compensation
25 for writers, directors, including music directors, producers, and
26 performers, other than background actors with no scripted lines,¹
27 except as follows:

28 (1) for a New Jersey studio partner that incurs less than
29 ¹~~[\$50,000,000]~~ \$25,000,000¹ in qualified film production expenses
30 in the State, in excess of amounts paid to highly compensated
31 individuals, an additional amount, not to exceed \$18,000,000, of the
32 wages or salaries or other compensation for writers, directors,
33 including music directors, producers, and performers, other than
34 background actors with no scripted lines, shall constitute qualified
35 film production expenses;

36 (2) (Deleted by amendment, P.L.2023, c.97)

37 (3) (Deleted by amendment, P.L.2023, c.97)

38 (4) for a New Jersey studio partner that incurs ¹~~[\$50,000,000]~~
39 \$25,000,000¹ or more in qualified film production expenses in the
40 State, in excess of amounts paid to highly compensated individuals,
41 an additional amount, not to exceed \$72,000,000, of the wages or
42 salaries or other compensation for writers, directors, including
43 music directors, producers, and performers, other than background
44 actors with no scripted lines, shall constitute qualified film
45 production expenses;

46 (5) for a New Jersey film-lease production company that incurs
47 less than \$50,000,000 in qualified film production expenses in the

1 State, in excess of amounts paid to highly compensated individuals,
2 an additional amount, not to exceed \$15,000,000, of the wages or
3 salaries or other compensation for writers, directors, including
4 music directors, producers, and performers, other than background
5 actors with no scripted lines, shall constitute qualified film
6 production expenses; and

7 (6) for a New Jersey film-lease production company that incurs
8 \$50,000,000 or more in qualified film production expenses in the
9 State, in excess of amounts paid to highly compensated individuals,
10 an additional amount, not to exceed \$60,000,000, of the wages or
11 salaries or other compensation for writers, directors, including
12 music directors, producers, and performers, other than background
13 actors with no scripted lines, shall constitute qualified film
14 production expenses.

15 "Total digital media content production expenses" means costs
16 for services performed and property used or consumed in the
17 production of digital media content.

18 "Total film production expenses" means costs for services
19 performed and tangible personal property used or consumed in the
20 production of a film.

21 (cf: P.L.2023, c.97, s.6)

22

23 ²4. Section 4 of P.L.2018, c.56 is amended to read as follows:

24 4. a. A taxpayer, upon approval of an application to the authority
25 and the director, shall be allowed a credit against the tax imposed
26 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the
27 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an
28 amount equal to two percent of the qualified film production expenses
29 or four percent of the digital media content production expenses of the
30 taxpayer during a privilege period or taxable year commencing on or
31 after July 1, 2018 but before July 1, **[2034]** 2039, provided that:

32 (1) the application is accompanied by a diversity plan outlining
33 specific goals, which may include advertising and recruitment actions,
34 for hiring minority persons and women;

35 (2) the director and the authority have approved the plan as
36 meeting the requirements established by the director and the authority;
37 and

38 (3) the director and the authority have verified that the applicant
39 has met or made good faith efforts in achieving those goals.

40 b. The amount of a tax credit allowed pursuant to subsection a. of
41 this section shall increase to four percent of the qualified film **[or**
42 **digital media content]** production expenses of the taxpayer if the
43 diversity plan, in addition to meeting the requirements of subsection a.
44 of this section, outlines specific goals that include hiring persons as
45 performers in the film **[or digital media production]** who are: (i)
46 women or members of **[ethnic]** a minority **[groups that are**
47 **underrepresented in film or digital media productions]** group; (ii)

1 **【if credited,】** residents of New Jersey for at least 12 months
2 preceding the beginning of filming or recording **【,and if uncredited,**
3 residents of any municipality in New Jersey in which filming occurs
4 as part of the production for at least 12 months preceding the
5 beginning of filming or recording at that location, or any
6 surrounding municipality**】**; and (iii) members of a bona fide labor
7 union representing film and television performers.

8 c. The director and the authority shall adopt any rules necessary
9 to implement this provision.

10 d. The application shall indicate whether the applicant intends to
11 participate in training, education, and recruitment programs that are
12 organized in cooperation with State colleges and universities, labor
13 organizations, and the motion picture industry and are designed to
14 promote and encourage the training and hiring of New Jersey residents
15 who represent the diversity of the State population.

16 (cf: P.L.2021, c.367, s.3)²

17

18 ¹**【3.】** ²**【4.1】** ^{5.2} This act shall take effect immediately ¹**【and**
19 shall apply retroactively beginning on January 1, 2024 to any
20 taxpayer who has not received a tax credit certificate or tax credit
21 transfer certificate from the New Jersey Economic Development
22 Authority before this date; provided, however, a taxpayer that has
23 received a tax credit certificate and has not used such tax credit
24 certificate before January 1, 2024 shall be allowed to surrender the
25 tax credit certificate to the authority and be issued a new tax credit
26 certificate under the provisions of this act**】**¹.