

[Second Reprint]

SENATE, No. 4094

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

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Senators Lagana, Ruiz and Greenstein

SYNOPSIS

Makes changes to film and digital media content production tax credit program.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 10, 2022.



(Sponsorship Updated As Of: 1/10/2022)

1 AN ACT concerning gross income and corporation business tax
2 credits for qualified film and digital media content production
3 expenses and amending P.L.2018, c.56.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
9 read as follows:

10 1. a. (1) A taxpayer, upon approval of an application to the
11 authority and the director, shall be allowed a credit against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
13 an amount equal to 35 percent of the qualified film production
14 expenses of the taxpayer during a privilege period commencing on
15 or after July 1, 2018 but before July 1, 2034, provided that:

16 (a) at least 60 percent of the total film production expenses,
17 exclusive of post-production costs, of the taxpayer are incurred for
18 services performed, and goods purchased through vendors
19 authorized to do business, in New Jersey, or the qualified film
20 production expenses of the taxpayer during the privilege period for
21 services performed, and goods purchased, through vendors
22 authorized to do business in New Jersey, exceed \$1,000,000 per
23 production;

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

26 (c) the film includes, when determined to be appropriate by the
27 commission, at no cost to the State, marketing materials promoting
28 this State as a film and entertainment production destination, which
29 materials shall include placement of a "Filmed in New Jersey" or
30 "Produced in New Jersey" statement, or an approved logo approved
31 by the commission, in the end credits of the film;

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

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

38 (2) Notwithstanding the provisions of paragraph (1) of
39 subsection a. of this section to the contrary, the tax credit allowed
40 pursuant to this subsection against the tax imposed pursuant to
41 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
42 equal to 30 percent of the qualified film production expenses of the

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:

¹Senate SBA committee amendments adopted December 16, 2021.

²Assembly floor amendments adopted January 10, 2022.

1 taxpayer during a privilege period that are incurred for services
2 performed and tangible personal property purchased for use at a
3 sound stage or other location that is located in the State within a 30-
4 mile radius of the intersection of Eighth Avenue/Central Park West,
5 Broadway, and West 59th Street/Central Park South, New York,
6 New York.

7 b. (1) A taxpayer, upon approval of an application to the
8 authority and the director, shall be allowed a credit against the tax
9 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
10 an amount equal to: **[20]** 30 percent of the qualified digital media
11 content production expenses of the taxpayer during a privilege
12 period commencing on or after July 1, 2018 but before July 1, 2034,
13 provided that:

14 (a) at least \$2,000,000 of the total digital media content
15 production expenses of the taxpayer are incurred for services
16 performed, and goods purchased through vendors authorized to do
17 business, in New Jersey;

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

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

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

27 (2) Notwithstanding the provisions of paragraph (1) of
28 subsection b. of this section to the contrary, the tax credit allowed
29 pursuant to this subsection against the tax imposed pursuant to
30 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
31 equal to **[25]** 35 percent of the qualified digital media content
32 production expenses of the taxpayer during a privilege period that
33 are incurred for services performed and tangible personal property
34 purchased through vendors whose primary place of business is
35 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
36 Gloucester, Mercer, or Salem County.

37 c. No tax credit shall be allowed pursuant to this section for
38 any costs or expenses included in the calculation of any other tax
39 credit or exemption granted pursuant to a claim made on a tax
40 return filed with the director, or included in the calculation of an
41 award of business assistance or incentive, for a period of time that
42 coincides with the privilege period for which a tax credit authorized
43 pursuant to this section is allowed. The order of priority in which
44 the tax credit allowed pursuant to this section and any other tax
45 credits allowed by law may be taken shall be as prescribed by the
46 director. The amount of the tax credit applied under this section
47 against the tax imposed pursuant to section 5 of P.L.1945, c.162

1 (C.54:10A-5), for a privilege period, when taken together with any
2 other payments, credits, deductions, and adjustments allowed by
3 law shall not reduce the tax liability of the taxpayer to an amount
4 less than the statutory minimum provided in subsection (e) of
5 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
6 credit otherwise allowable under this section which cannot be
7 applied for the privilege period due to the limitations of this
8 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
9 1 et seq.) may be carried forward, if necessary, to the seven
10 privilege periods following the privilege period for which the tax
11 credit was allowed.

12 d. A taxpayer, with an application for a tax credit provided for
13 in subsection a. or subsection b. of this section, may apply to the
14 authority and the director for a tax credit transfer certificate in lieu
15 of the taxpayer being allowed any amount of the tax credit against
16 the tax liability of the taxpayer. The tax credit transfer certificate,
17 upon receipt thereof by the taxpayer from the authority and the
18 director, may be sold or assigned, in full or in part, to any other
19 taxpayer that may have a tax liability under the "Corporation
20 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
22 exchange for private financial assistance to be provided by the
23 purchaser or assignee to the taxpayer that has applied for and been
24 granted the tax credit. The tax credit transfer certificate provided to
25 the taxpayer shall include a statement waiving the taxpayer's right
26 to claim that amount of the tax credit against the tax imposed
27 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
28 taxpayer has elected to sell or assign. The sale or assignment of any
29 amount of a tax credit transfer certificate allowed under this section
30 shall not be exchanged for consideration received by the taxpayer of
31 less than 75 percent of the transferred tax credit amount. Any
32 amount of a tax credit transfer certificate used by a purchaser or
33 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
34 et seq.) shall be subject to the same limitations and conditions that
35 apply to the use of a tax credit pursuant to subsection c. of this
36 section. Any amount of a tax credit transfer certificate obtained by
37 a purchaser or assignee under subsection a. or subsection b. of this
38 section may be applied against the purchaser's or assignee's tax
39 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
40 same limitations and conditions that apply to the use of a credit
41 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
42 (C.54A:4-12b).

43 e. (1) The value of tax credits, including tax credits allowed
44 through the granting of tax credit transfer certificates, approved by
45 the director and the authority pursuant to subsection a. of this
46 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
47 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners

1 and New Jersey film-lease partners, shall not exceed a cumulative
2 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
3 thereafter prior to fiscal year 2035 to apply against the tax imposed
4 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
5 imposed pursuant to the "New Jersey Gross Income Tax Act,"
6 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
7 the value of tax credits approved by the director for New Jersey
8 film-lease partners and the \$100,000,000 limitation on the value of
9 tax credits approved by the director for other taxpayers imposed by
10 this paragraph, the value of tax credits, including tax credits
11 allowed through the granting of tax credit transfer certificates,
12 approved by the director and the authority pursuant to subsection a.
13 of this section and pursuant to subsection a. of section 2 of
14 P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall
15 not exceed a cumulative total of \$100,000,000 in fiscal year 2021
16 and in each fiscal year thereafter prior to fiscal year 2034 to apply
17 against the tax imposed pursuant to section 5 of P.L.1945, c.162
18 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
19 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal
20 year 2025, in addition to the \$100,000,000 made available for New
21 Jersey studio partners pursuant to this paragraph, up to an additional
22 \$350,000,000 may be made available annually, in the discretion of
23 the authority, to New Jersey studio partners for the award of tax
24 credits, including tax credits allowed through the granting of tax
25 credit transfer certificates, pursuant to subsection a. of this section
26 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
27 from the funds made available pursuant to subparagraph (i) of
28 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
29 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
30 value of tax credits approved by the director for New Jersey studio
31 partners and the \$100,000,000 limitation on the value of tax credits
32 approved by the director for other taxpayers imposed by this
33 paragraph, the value of tax credits, including tax credits allowed
34 through the granting of tax credit transfer certificates, approved by
35 the director and the authority pursuant to subsection a. of this
36 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
37 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a
38 cumulative total of \$100,000,000 in fiscal year 2021 and in each
39 fiscal year thereafter prior to fiscal year 2034 to apply against the
40 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
41 and the tax imposed pursuant to the "New Jersey Gross Income Tax
42 Act," N.J.S.54A:1-1 et seq. ¹Beginning in fiscal year 2025, in
43 addition to the \$100,000,000 made available for New Jersey film-
44 lease partners pursuant to this paragraph, up to an additional
45 \$100,000,000 may be made available annually, in the discretion of
46 the authority, to New Jersey film-lease partners for the award of tax
47 credits, including tax credits allowed through the granting of tax

1 credit transfer certificates, pursuant to subsection a. of this section
2 and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b),
3 from the funds made available pursuant to subparagraph (i) of
4 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
5 (C.34:1B-362).¹ Approvals made to New Jersey studio partners and
6 New Jersey film-lease partners shall be subject to award agreements
7 with the authority detailing obligations of the awardee and
8 outcomes relating to events of default, including, but not limited to,
9 recapture, forfeiture, and termination. If in any privilege period,
10 beginning following a date determined by the authority, a New
11 Jersey film-lease partner's annual average of qualified film
12 production expenses falls below \$50,000,000, the authority shall
13 reduce by 20 percent any tax credit award for a film for which final
14 documentation ¹【pursuant to N.J.A.C.19:31-21.7(c)】¹ has been
15 submitted, until a privilege period when the annual average of
16 qualified film production expenses has been restored to
17 \$50,000,000. The authority shall establish a non-binding,
18 administrative pre-certification process for potentially eligible
19 projects.

20 【If the cumulative total amount of tax credits, and tax credit
21 transfer certificates, allowed to taxpayers for privilege periods or
22 taxable years commencing during a single fiscal year under
23 subsection a. of this section and subsection a. of section 2 of
24 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
25 available in that fiscal year, then taxpayers who have first applied
26 for and have not been allowed a tax credit or tax credit transfer
27 certificate amount for that reason shall be allowed, in the order in
28 which they have submitted an application, the amount of tax credit
29 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 a. of this section and subsection a. of
32 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
33 amount of credits】¹【Notwithstanding the limitations set forth in
34 this paragraph, if in any fiscal year the authority receives
35 applications for tax credits under subsection a. of this section and
36 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in
37 amounts exceeding the total amount of tax credits available for the
38 fiscal year, then the authority may approve applications, in the order
39 in which such applications were submitted, for excess tax credits
40 during the year in which the application was submitted, provided
41 that the amount of excess credits shall be subtracted from the total
42 amounts allowed for the next following fiscal year in which credits
43 are available, and provided further that the taxpayer shall not claim
44 the excess tax credit or tax credit transfer certificate until the first
45 day of the fiscal year from which the credits were made】 If the
46 cumulative total amount of tax credits, and tax credit transfer

1 certificates, allowed to taxpayers for privilege periods or taxable
2 years commencing during a single fiscal year under subsection a. of
3 this section and subsection a. of section 2 of P.L.2018, c.56
4 (C.54A:4-12b) exceeds the amount of tax credits available in that
5 fiscal year, then taxpayers who have first applied for and have not
6 been allowed a tax credit or tax credit transfer certificate amount for
7 that reason shall be allowed, in the order in which they have
8 submitted an application, the amount of tax credit or tax credit
9 transfer certificate on the first day of the next succeeding fiscal year
10 in which tax credits and tax credit transfer certificates under
11 subsection a. of this section and subsection a. of section 2 of
12 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
13 credits¹ available.

14 Notwithstanding any provision of 'this' paragraph '[(1) of this
15 subsection]' to the contrary, for any fiscal year in which the
16 amount of tax credits approved 'to New Jersey studio partners, New
17 Jersey film-lease partners, or taxpayers other than New Jersey
18 studio partners and New Jersey film-lease partners' pursuant to this
19 paragraph is less than the cumulative total amount of tax credits
20 permitted to be approved 'to each such category,' in that fiscal
21 year, the authority shall certify the amount of the remaining tax
22 credits available for approval 'to each such category' in that fiscal
23 year, and shall increase the cumulative total amount of tax credits
24 permitted to be approved for New Jersey studio partners ' , New
25 Jersey film-lease partners, or taxpayers other than New Jersey
26 studio partners and New Jersey film-lease partners' in the
27 subsequent fiscal year by the certified amount remaining 'for each
28 such category' from the prior fiscal year. The authority shall also
29 certify, for each fiscal year, the amount of tax credits that were
30 previously approved, but that the taxpayer is not able to redeem or
31 transfer to another taxpayer under this section, and shall increase
32 the cumulative total amount of tax credits permitted to be approved
33 for New Jersey studio partners ' , New Jersey film-lease partners, or
34 taxpayers other than New Jersey studio partners and New Jersey
35 film-lease partners' in the subsequent fiscal year by the amount of
36 tax credits previously approved 'for each such category', but not
37 subject to redemption or transfer. 'In each fiscal year in which tax
38 credits remain unapproved for, or unredeemed or not transferred by,
39 New Jersey film-lease partners or taxpayers other than New Jersey
40 studio partners and New Jersey film-lease partners, the authority
41 may reallocate some or all of such remaining tax credits in the
42 subsequent fiscal year between the category of New Jersey film-
43 lease partners and the category of taxpayers other than New Jersey
44 studio partners and New Jersey film-lease partners in lieu of

1 increasing the tax credits available for the respective category by
2 the amount reallocated.¹

3 (2) The value of tax credits, including tax credits allowed
4 through the granting of tax credit transfer certificates, approved by
5 the authority and the director pursuant to subsection b. of this
6 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
7 (C.54A:4-12b) shall not exceed a cumulative total of **[\$10,000,000]**
8 \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter
9 prior to fiscal year 2035 to apply against the tax imposed pursuant
10 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
11 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
12 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:4-12.b) 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 be allowed, in the order in which they have submitted
21 an application, the amount of tax credit or tax credit transfer
22 certificate on the first day of the next succeeding fiscal year in
23 which tax credits and tax credit transfer certificates under
24 subsection b. of this section and subsection b. of section 2 of
25 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
26 credits **】**¹【Notwithstanding the limitations set forth in this
27 paragraph, if in any fiscal year the authority receives applications
28 for tax credits under subsection b. of this section and subsection b.
29 of section 2 of P.L.2018, c.56 (C.54A:4-12.b) in amounts exceeding
30 the total amount of tax credits available for the fiscal year, then the
31 authority may approve applications, in the order in which such
32 applications were submitted, for excess tax credits during the year
33 in which the application was submitted, provided that the amount of
34 excess credits shall be subtracted from the total amounts allowed
35 for the next following fiscal year in which credits are available, and
36 provided further that the taxpayer shall not claim the excess tax
37 credit or tax credit transfer certificate until the first day of the fiscal
38 year from which the credits were made】 **【**If the total amount of tax
39 credits and tax credit transfer certificates allowed to taxpayers for
40 privilege periods or taxable years commencing during a single fiscal
41 year under subsection b. of this section and subsection b. of section
42 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax
43 credits available in that year, then taxpayers who have first applied
44 for and have not been allowed a tax credit or tax credit transfer
45 certificate amount for that reason shall be allowed, in the order in
46 which they have submitted an application, the amount of tax credit

1 or tax credit transfer certificate on the first day of the next
2 succeeding fiscal year in which tax credits and tax credit transfer
3 certificates under subsection b. of this section and subsection b. of
4 section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the
5 amount of credits¹ available.

6 Notwithstanding any provision of this paragraph to the contrary,
7 for any fiscal year in which the amount of tax credits approved
8 pursuant to this paragraph is less than the cumulative total amount
9 of tax credits permitted to be approved in that fiscal year, the
10 authority shall certify the amount of the remaining tax credits
11 available for approval in that fiscal year, and shall increase the
12 cumulative total amount of tax credits permitted to be approved in
13 the subsequent fiscal year by the certified amount remaining from
14 the prior fiscal year. The authority shall also certify, for each fiscal
15 year, the amount of tax credits that were previously approved, but
16 that the taxpayer is not able to redeem or transfer to another
17 taxpayer under this section, and shall increase the cumulative total
18 amount of tax credits permitted to be approved in the subsequent
19 fiscal year by the amount of tax credits previously approved, but not
20 subject to redemption or transfer.

21 f. A taxpayer shall submit to the authority and the director a
22 report prepared by an independent certified public accountant
23 licensed in this State to verify the taxpayer's tax credit claim
24 following the completion of the production. The report shall be
25 prepared by the independent certified public accountant pursuant to
26 agreed upon procedures prescribed by the authority and the director,
27 and shall include such information and documentation as shall be
28 determined to be necessary by the authority and the director to
29 substantiate the qualified film production expenses or the qualified
30 digital media content production expenses of the taxpayer. A single
31 report with attachments deemed necessary by the authority shall be
32 submitted electronically. Upon receipt of the report, the authority
33 and the director shall review the findings of the independent
34 certified public accountant's report, and shall make a determination
35 as to the qualified film production expenses or the qualified digital
36 media content production expenses of the taxpayer. The authority's
37 and the director's review shall include, but shall not be limited to: a
38 review of all non-payroll qualified film production expense items
39 and non-payroll digital media content production expense items
40 over \$20,000; a review of 100 randomly selected non-payroll
41 qualified film production expense items and non-payroll digital
42 media content production expense items that are greater than
43 \$2,500, but less than \$20,000; a review of 100 randomly selected
44 non-payroll qualified film production expense items and non-
45 payroll digital media content production expense items that are less
46 than \$2,500; a review of the qualified wages for the 15 employees,
47 independent contractors, or loan-out companies with the highest

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

21 g. A taxpayer shall withhold from each payment to a loan out
22 company or to an independent contractor an amount equal to 6.37
23 percent of the payment otherwise due. The amounts withheld shall
24 be deemed to be withholding of liability pursuant to the "New
25 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
26 taxpayer shall be deemed to have the rights, duties, and
27 responsibilities of an employer pursuant to chapter 7 of Title 54A of
28 the New Jersey Statutes. The director shall allocate the amounts
29 withheld for a taxable year to the accounts of the individuals who
30 are employees of a loan out company in proportion to the
31 employee's payment by the loan out company in connection with a
32 trade, profession, or occupation carried on in this State or for the
33 rendition of personal services performed in this State during the
34 taxable year. A loan out company that reports its payments to
35 employees in connection with a trade, profession, or occupation
36 carried on in this State or for the rendition of personal services
37 performed in this State during a taxable year shall be relieved of its
38 duties and responsibilities as an employer pursuant to chapter 7 of
39 Title 54A of the New Jersey Statutes for the taxable year for any
40 payments relating to the payments on which the taxpayer withheld.

41 h. As used in this section:

42 "Authority" means the New Jersey Economic Development
43 Authority.

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

1 "Commission" means the Motion Picture and Television
2 Development Commission.

3 "Digital media content" means any data or information that is
4 produced in digital form, including data or information created in
5 analog form but reformatted in digital form, text, graphics,
6 photographs, animation, sound, and video content. "Digital media
7 content" shall not mean content offerings generated by the end user
8 (including postings on electronic bulletin boards and chat rooms);
9 content offerings comprised primarily of local news, events,
10 weather, or local market reports; public service content; electronic
11 commerce platforms (such as retail and wholesale websites);
12 websites or content offerings that contain obscene material as
13 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
14 content that are produced or maintained primarily for private,
15 industrial, corporate, or institutional purposes; or digital media
16 content acquired or licensed by the taxpayer for distribution or
17 incorporation into the taxpayer's digital media content.

18 "Film" means a feature film, a television series, or a television
19 show of 22 minutes or more in length, intended for a national
20 audience, or a television series or a television show of 22 minutes
21 or more in length intended for a national or regional audience,
22 including, but not limited to, a game show, award show, or other
23 gala event filmed and produced at a nonprofit arts and cultural
24 venue receiving State funding. "Film" shall not include a
25 production featuring news, current events, weather, and market
26 reports or public programming, talk show, or sports event, a
27 production that solicits funds, a production containing obscene
28 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
29 production primarily for private, industrial, corporate, or
30 institutional purposes, or a reality show, except if the production
31 company of the reality show owns, leases, or otherwise occupies a
32 production facility of no less than 20,000 square feet of real
33 property for a minimum term of 24 months, and invests no less than
34 \$3,000,000 in such a facility within a designated enterprise zone
35 established pursuant to the "New Jersey Urban Enterprise Zones
36 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
37 business district established pursuant to section 3 of P.L.2001,
38 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
39 other gala event that is not filmed and produced at a nonprofit arts
40 and cultural venue receiving State funding.

41 "Full-time or full-time equivalent employee" means an individual
42 employed by the taxpayer for consideration for at least 35 hours a
43 week, or who renders any other standard of service generally
44 accepted by custom or practice as full-time or full-time equivalent
45 employment, whose wages are subject to withholding as provided in
46 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
47 who is a partner of a taxpayer, who works for the partnership for at

1 least 35 hours a week, or who renders any other standard of service
2 generally accepted by custom or practice as full-time or full-time
3 equivalent employment, and whose distributive share of income,
4 gain, loss, or deduction, or whose guaranteed payments, or any
5 combination thereof, is subject to the payment of estimated taxes, as
6 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq. "Full-time or full-time equivalent employee" shall not
8 include an individual who works as an independent contractor or on
9 a consulting basis for the taxpayer.

10 "Highly compensated individual" means an individual who
11 directly or indirectly receives compensation in excess of \$500,000
12 for the performance of services used directly in a production. An
13 individual receives compensation indirectly when the taxpayer pays
14 a loan out company that, in turn, pays the individual for the
15 performance of services.

16 "Incurred in New Jersey" means, for any application submitted
17 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
18 pursuant to which a tax credit has not been allowed prior to the
19 effective date of P.L.2021, c.160, service performed within New
20 Jersey and tangible personal property used or consumed in New
21 Jersey. A service is performed in New Jersey to the extent that the
22 individual performing the service is physically located in New
23 Jersey while performing the service. Notwithstanding where the
24 property is delivered or acquired, rented tangible property is used or
25 consumed in New Jersey to the extent that the property is located in
26 New Jersey during its use or consumption and is rented from a
27 vendor authorized to do business in New Jersey or the film
28 production company provides to the authority the vendor's
29 information in a form and manner prescribed by the authority.
30 Purchased tangible property is not used and consumed in New
31 Jersey unless it is purchased from a vendor authorized to do
32 business in New Jersey and is delivered to or acquired within New
33 Jersey; provided, however, that if a production is also located in
34 another jurisdiction, the purchased tangible property is used and
35 consumed in New Jersey if the acquisition and delivery of
36 purchased tangible property is located in either New Jersey or
37 another jurisdiction where the production takes place.

38 "Independent contractor" means an individual treated as an
39 independent contractor for federal and State tax purposes who is
40 contracted with by the taxpayer for the performance of services
41 used directly in a production.

42 "Loan out company" means a personal service corporation or
43 other entity that is contracted with by the taxpayer to provide
44 specified individual personnel, such as artists, crew, actors,
45 producers, or directors for the performance of services used directly
46 in a production. "Loan out company" shall not include entities
47 contracted with by the taxpayer to provide goods or ancillary

1 contractor services such as catering, construction, trailers,
2 equipment, or transportation.

3 "New Jersey film-lease partner" means a taxpayer, including any
4 taxpayer that is a member of a combined group under P.L.2018,
5 c.131 (C.54:10A-4.11), that has made a commitment to lease or
6 acquire all or part of a New Jersey production facility **[with]** which leased or acquired space shall have an aggregate square
7 footage of at least 50,000 square feet, **[which includes]** including
8 a sound stage and production support space, such as production
9 offices or a backlot, for a period of five or more successive years
10 and commits to spend, on a separate-entity basis or in the aggregate
11 with other members of the taxpayer's combined group, an annual
12 average of \$50,000,000 of qualified film production expenses over
13 the period of at least five but not to exceed 10 years.

15 "New Jersey studio partner" means a film production company
16 that has made a commitment to produce films or commercial
17 audiovisual products in New Jersey and has developed, purchased,
18 or executed a 10-year contract to lease a production facility of
19 250,000 square feet or more ¹**[as a "transformative project"**
20 **pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333)]¹. No
21 more than three film production companies may be designated as a
22 New Jersey studio partner.**

23 "Partnership" means an entity classified as a partnership for
24 federal income tax purposes.

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

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

34 "Qualified digital media content production expenses" means an
35 expense incurred in New Jersey for the production of digital media
36 content. "Qualified digital media content production expenses"
37 shall include but not be limited to: wages and salaries of individuals
38 employed in the production of digital media content on which the
39 tax imposed by the "New Jersey Gross Income Tax Act,"
40 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
41 computer software and hardware, data processing, visualization
42 technologies, sound synchronization, editing, and the rental of
43 facilities and equipment. Payment made to a loan out company or
44 to an independent contractor shall not be deemed a "qualified digital
45 media content production expense" unless the payment is made in
46 connection with a trade, profession, or occupation carried on in this

1 State or for the rendition of personal services performed in this
2 State and the taxpayer has made the withholding required pursuant
3 to subsection g. of this section. "Qualified digital media content
4 production expenses" shall not include expenses incurred in
5 marketing, promotion, or advertising digital media or other costs
6 not directly related to the production of digital media content.
7 Costs related to the acquisition or licensing of digital media content
8 by the taxpayer for distribution or incorporation into the taxpayer's
9 digital media content shall not be deemed "qualified digital media
10 content production expenses."

11 "Qualified film production expenses" means an expense incurred
12 in New Jersey for the production of a film including pre-production
13 costs and post-production costs incurred in New Jersey. "Qualified
14 film production expenses" shall include but not be limited to:
15 wages and salaries of individuals employed in the production of a
16 film on which the tax imposed by the "New Jersey Gross Income
17 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
18 costs for tangible personal property used, and services performed,
19 directly and exclusively in the production of a film, such as
20 expenditures for film production facilities, props, makeup,
21 wardrobe, film processing, camera, sound recording, set
22 construction, lighting, shooting, editing, and meals. Payment made
23 to a loan out company or to an independent contractor shall not be
24 deemed a "qualified film production expense" unless the payment is
25 made in connection with a trade, profession, or occupation carried
26 on in this State or for the rendition of personal services performed
27 in this State and the taxpayer has made the withholding required
28 pursuant to subsection g. of this section. "Qualified film production
29 expenses" shall not include: expenses incurred in marketing or
30 advertising a film; and payment in excess of \$500,000 to a highly
31 compensated individual for costs for a story, script, or scenario used
32 in the production of a film and wages or salaries or other
33 compensation for writers, directors, including music directors,
34 producers, and performers, other than background actors with no
35 scripted lines, except as follows:

36 (1) for a New Jersey studio partner that incurs more than
37 \$15,000,000, but less than \$50,000,000, in qualified film production
38 expenses in the State, an amount, not to exceed \$15,000,000, of the
39 wages or salaries or other compensation for writers, directors,
40 including music directors, producers, and performers, other than
41 background actors with no scripted lines, shall constitute qualified
42 film production expenses;

43 (2) for a New Jersey studio partner that incurs \$50,000,000 or
44 more, but less than \$100,000,000, in qualified film production
45 expenses in the State, an amount, not to exceed \$25,000,000, of the
46 wages or salaries or other compensation for writers, directors,
47 including music directors, producers, and performers, other than

1 background actors with no scripted lines, shall constitute qualified
2 film production expenses;

3 (3) for a New Jersey studio partner that incurs \$100,000,000 or
4 more, but less than \$150,000,000, in qualified film production
5 expenses in the State, an amount, not to exceed \$40,000,000, of the
6 wages or salaries or other compensation for writers, directors,
7 including music directors, producers, and performers, other than
8 background actors with no scripted lines, shall constitute qualified
9 film production expenses; ~~and~~ ¹and¹

10 (4) for a New Jersey studio partner that incurs \$150,000,000 or
11 more in qualified film production expenses in the State, an amount,
12 not to exceed \$60,000,000, of the wages or salaries or other
13 compensation for writers, directors, including music directors,
14 producers, and performers, other than background actors with no
15 scripted lines, shall constitute qualified film production expenses¹;
16 and

17 (5) for a New Jersey film-lease partner, an amount, not to
18 exceed \$15,000,000, of the payments in excess of \$500,000 to each
19 highly compensated individual for costs for a story, script, or
20 scenario used in the production of a film and wages or salaries or
21 other compensation for writers, directors, including music directors,
22 producers, and performers, other than background actors with no
23 scripted lines, shall constitute qualified film production expenses¹.

24 "Total digital media content production expenses" means costs
25 for services performed and property used or consumed in the
26 production of digital media content.

27 "Total film production expenses" means costs for services
28 performed and tangible personal property used or consumed in the
29 production of a film.

30 i. A business that is not a "taxpayer" as defined and used in the
31 "Corporation Business Tax Act (1945)," P.L.1945, c.162
32 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
33 under this section, but is a business entity that is classified as a
34 partnership for federal income tax purposes and is ultimately owned
35 by a business entity that is a "corporation" as defined in subsection
36 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
37 liability company formed under the "Revised Uniform Limited
38 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
39 qualified to do business in this State as a foreign limited liability
40 company, with one member, and is wholly owned by the business
41 entity that is a "corporation" as defined in subsection (c) of section
42 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
43 requirements of this section, shall be considered an eligible
44 applicant and "taxpayer" as that term is used in this section.
45 (cf: P.L.2021, c.160, s.58)

1 2. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
2 read as follows:

3 2. a. (1) A taxpayer, upon approval of an application to the
4 authority and the director, shall be allowed a credit against the tax
5 otherwise due for the taxable year under the "New Jersey Gross
6 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35
7 percent of the qualified film production expenses of the taxpayer
8 during a taxable year commencing on or after July 1, 2018 but
9 before July 1, 2034, provided that:

10 (a) at least 60 percent of the total film production expenses,
11 exclusive of post-production costs, of the taxpayer are incurred for
12 services performed, and goods purchased through vendors
13 authorized to do business, in New Jersey, or the qualified film
14 production expenses of the taxpayer during the taxable year for
15 services performed, and goods purchased, through vendors
16 authorized to do business in New Jersey, exceed \$1,000,000 per
17 production;

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 30 percent of
37 the qualified film production expenses of the taxpayer during a
38 taxable year that are incurred for services performed and tangible
39 personal property purchased for use at a sound stage or other
40 location that is located in the State within a 30-mile radius of the
41 intersection of Eighth Avenue/Central Park West, Broadway, and
42 West 59th Street/Central Park South, New York, New York.

43 b. (1) A taxpayer, upon approval of an application to the
44 authority and the director, shall be allowed a credit against the tax
45 otherwise due for the taxable year under the "New Jersey Gross
46 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:
47 **[20]** 30 percent of the qualified digital media content production

1 expenses of the taxpayer during a taxable year commencing on or
2 after July 1, 2018 but before July 1, 2034, provided that:

3 (a) at least \$2,000,000 of the total digital media content
4 production expenses of the taxpayer are incurred for services
5 performed, and goods purchased through vendors authorized to do
6 business, in New Jersey;

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

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

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

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

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

1 d. (1) A business entity that is classified as a partnership for
2 federal income tax purposes shall not be allowed a tax credit
3 pursuant to this section directly, but the amount of tax credit of a
4 taxpayer in respect of a distributive share of entity income, shall be
5 determined by allocating to the taxpayer that proportion of the tax
6 credit acquired by the entity that is equal to the taxpayer's share,
7 whether or not distributed, of the total distributive income or gain
8 of the entity for its taxable year ending within or with the taxpayer's
9 taxable year.

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

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

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

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

11 f. (1) The value of tax credits, including tax credits allowed
12 through the granting of tax credit transfer certificates, approved by
13 the director and the authority pursuant to subsection a. of this
14 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
15 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio
16 partners and New Jersey film-lease partners, shall not exceed a
17 cumulative total of \$100,000,000 in fiscal year 2019 and in each
18 fiscal year thereafter prior to fiscal year 2035 to apply against the
19 tax imposed pursuant to the "New Jersey Gross Income Tax Act,"
20 N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162
21 (C.54:10A-5). In addition to the \$100,000,000 limitation on the
22 value of tax credits approved by the director for New Jersey film-
23 lease partners and the \$100,000,000 limitation on the value of tax
24 credits approved by the director for other taxpayers imposed by this
25 paragraph, the value of tax credits, including tax credits allowed
26 through the granting of tax credit transfer certificates, approved by
27 the director and the authority pursuant to subsection a. of this
28 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
29 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a
30 cumulative total of \$100,000,000 in fiscal year 2021 and in each
31 fiscal year thereafter prior to fiscal year 2034 to apply against the
32 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
33 and the tax imposed pursuant to the "New Jersey Gross Income Tax
34 Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in
35 addition to the \$100,000,000 made available for New Jersey studio
36 partners pursuant to this paragraph, up to an additional
37 \$350,000,000 may be made available annually, in the discretion of
38 the authority, to New Jersey studio partners for the award of tax
39 credits, including tax credits allowed through the granting of tax
40 credit transfer certificates, pursuant to subsection a. of this section
41 and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b),
42 from the funds made available pursuant to subparagraph (i) of
43 paragraph (1) of subsection b. of section 98 of P.L.2020, c.156
44 (C.34:1B-362). In addition to the \$100,000,000 limitation on the
45 value of tax credits approved by the director for New Jersey studio
46 partners and the \$100,000,000 limitation on the value of tax credits
47 approved by the director for other taxpayers imposed by this

1 paragraph, the value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this
4 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
5 (C.54:10A-5.39b) to New Jersey film-lease partners shall not
6 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
7 in each fiscal year thereafter prior to fiscal year 2034 to apply
8 against the tax imposed pursuant to section 5 of P.L.1945, c.162
9 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
10 Gross Income Tax Act," N.J.S.54A:1-1 et seq. ¹Beginning in fiscal
11 year 2025, in addition to the \$100,000,000 made available for New
12 Jersey film-lease partners pursuant to this paragraph, up to an
13 additional \$100,000,000 may be made available annually, in the
14 discretion of the authority, to New Jersey film-lease partners for the
15 award of tax credits, including tax credits allowed through the
16 granting of tax credit transfer certificates, pursuant to subsection a.
17 of this section and subsection a. of section 1 of P.L.2018, c.56
18 (C.54:10A-5.39b), from the funds made available pursuant to
19 subparagraph (i) of paragraph (1) of subsection b. of section 98 of
20 P.L.2020, c.156 (C.34:1B-362).¹ Approvals made to New Jersey
21 studio partners and New Jersey film-lease partners shall be subject
22 to award agreements with the authority detailing obligations of the
23 awardee and outcomes relating to events of default, including, but
24 not limited to, recapture, forfeiture, and termination. If in any
25 taxable year, beginning following a date determined by the
26 authority, a New Jersey film-lease partner's annual average of
27 qualified film production expenses falls below \$50,000,000, the
28 authority shall reduce by 20 percent any tax credit award for a film
29 for which final documentation ¹**【**pursuant to N.J.A.C.19:31-
30 21.7(c)**】**¹ has been submitted, until a taxable year when the annual
31 average of qualified film production expenses has been restored to
32 \$50,000,000. The authority shall establish a non-binding,
33 administrative pre-certification process for potentially eligible
34 projects.

35 **【**If the cumulative total amount of tax credits, and tax credit
36 transfer certificates, allowed to taxpayers for taxable years or
37 privilege periods commencing during a single fiscal year under
38 subsection a. of this section and subsection a. of section 1 of
39 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
40 available in that fiscal year, then taxpayers who have first applied
41 for and have not been allowed a tax credit or tax credit transfer
42 certificate amount for that reason shall be allowed, in the order in
43 which they have submitted an application, the amount of tax credit
44 or tax credit transfer certificate on the first day of the next
45 succeeding fiscal year in which tax credits and tax credit transfer
46 certificates under subsection a. of this section and subsection a. of

1 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
2 the amount of credits¹ ~~1~~ 1 ~~Notwithstanding the limitations set forth~~
3 ~~in this paragraph, if in any fiscal year the authority receives~~
4 ~~applications for tax credits under subsection a. of this section and~~
5 ~~subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in~~
6 ~~amounts exceeding the total amount of tax credits available for the~~
7 ~~fiscal year, then the authority may approve applications, in the order~~
8 ~~in which such applications were submitted, for excess tax credits~~
9 ~~during the year in which the application was submitted, provided~~
10 ~~that the amount of excess credits shall be subtracted from the total~~
11 ~~amounts allowed for the next following fiscal year in which credits~~
12 ~~are available, and provided further that the taxpayer shall not claim~~
13 ~~the excess tax credit or tax credit transfer certificate until the first~~
14 ~~day of the fiscal year from which the credits were made.~~ ~~1~~ 1 ~~If the~~
15 ~~cumulative total amount of tax credits, and tax credit transfer~~
16 ~~certificates, allowed to taxpayers for taxable years or privilege~~
17 ~~periods commencing during a single fiscal year under subsection a.~~
18 ~~of this section and subsection a. of section 1 of P.L.2018, c.56~~
19 ~~(C.54:10A-5.39b) exceeds the amount of tax credits available in~~
20 ~~that fiscal year, then taxpayers who have first applied for and have~~
21 ~~not been allowed a tax credit or tax credit transfer certificate~~
22 ~~amount for that reason shall be allowed, in the order in which they~~
23 ~~have submitted an application, the amount of tax credit or tax credit~~
24 ~~transfer certificate on the first day of the next succeeding fiscal year~~
25 ~~in which tax credits and tax credit transfer certificates under~~
26 ~~subsection a. of this section and subsection a. of section 1 of~~
27 ~~P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of~~
28 ~~credits¹ available.~~

29 Notwithstanding any provision of ~~1~~ 1 ~~this~~ 1 ~~paragraph~~ 1 ~~[(1) of this~~
30 ~~subsection]~~ 1 ~~to the contrary, for any fiscal year in which the~~
31 ~~amount of tax credits approved~~ 1 ~~to New Jersey studio partners, New~~
32 ~~Jersey film-lease partners, or taxpayers other than New Jersey~~
33 ~~studio partners and New Jersey film-lease partners¹ pursuant to this~~
34 ~~paragraph is less than the cumulative total amount of tax credits~~
35 ~~permitted to be approved~~ 1 ~~to each such category¹ in that fiscal year,~~
36 ~~the authority shall certify the amount of the remaining tax credits~~
37 ~~available for approval~~ 1 ~~to each such category¹ in that fiscal year,~~
38 ~~and shall increase the cumulative total amount of tax credits~~
39 ~~permitted to be approved for New Jersey studio partners~~ 1 ~~, New~~
40 ~~Jersey film-lease partners, or taxpayers other than New Jersey~~
41 ~~studio partners and New Jersey film-lease partners¹ in the~~
42 ~~subsequent fiscal year by the certified amount remaining from the~~
43 ~~prior fiscal year. The authority shall also certify, for each fiscal~~
44 ~~year, the amount of tax credits that were previously approved, but~~
45 ~~that the taxpayer is not able to redeem or transfer to another~~
46 ~~taxpayer under this section, and shall increase the cumulative total~~

1 amount of tax credits permitted to be approved for New Jersey
2 studio partners ¹, New Jersey film-lease partners, or taxpayers other
3 than New Jersey studio partners and New Jersey film-lease
4 partners¹ in the subsequent fiscal year by the amount of tax credits
5 previously approved ¹for each such category¹, but not subject to
6 redemption or transfer. ¹In each fiscal year in which tax credits
7 remain unapproved for, or unredeemed or not transferred by, New
8 Jersey film-lease partners or taxpayers other than New Jersey studio
9 partners and New Jersey film-lease partners, the authority may
10 reallocate some or all of such remaining tax credits in the
11 subsequent fiscal year between the category of New Jersey film-
12 lease partners and the category of taxpayers other than New Jersey
13 studio partners and New Jersey film-lease partners in lieu of
14 increasing the tax credits available for the respective category by
15 the amount reallocated.¹

16 (2) The value of tax credits, including tax credits allowed
17 through the granting of tax credit transfer certificates, approved by
18 the authority and the director pursuant to subsection b. of this
19 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
20 (C.54:10A-5.39b) shall not exceed a cumulative total of
21 ~~[\$10,000,000]~~ \$30,000,000 in fiscal year 2019 and in each fiscal
22 year thereafter prior to fiscal year 2035 to apply against the tax
23 imposed pursuant to the "New Jersey Gross Income Tax Act,"
24 N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of
25 P.L.1945, c.162 (C.54:10A-5).

26 **【**If the total amount of tax credits and tax credit transfer
27 certificates allowed to taxpayers for taxable years or privilege
28 periods commencing during a single fiscal year under subsection b.
29 of this section and subsection b. of section 1 of P.L.2018, c.56
30 (C.54:10A-5.39b) exceeds the amount of tax credits available in
31 that year, then taxpayers who have first applied for and have not
32 been allowed a tax credit or tax credit transfer certificate amount for
33 that reason shall be allowed, in the order in which they have
34 submitted an application, the amount of tax credit or tax credit
35 transfer certificate on the first day of the next succeeding fiscal year
36 in which tax credits and tax credit transfer certificates under
37 subsection b. of this section and subsection b. of section 1 of
38 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
39 credits **】** ¹【Notwithstanding the limitations set forth in this
40 paragraph, if in any fiscal year the authority receives applications
41 for tax credits under subsection b. of this section and subsection b.
42 of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) in amounts
43 exceeding the total amount of tax credits available for the fiscal
44 year, then the authority may approve applications, in the order in
45 which such applications were submitted, for excess tax credits
46 during the year in which the application was submitted, provided

1 that the amount of excess credits shall be subtracted from the total
2 amounts allowed for the next following fiscal year in which credits
3 are available, and provided further that the taxpayer shall not claim
4 the excess tax credit or tax credit transfer certificate until the first
5 day of the fiscal year from which the credits were made.] If the total
6 amount of tax credits and tax credit transfer certificates allowed to
7 taxpayers for taxable years or privilege periods commencing during
8 a single fiscal year under subsection b. of this section and
9 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b)
10 exceeds the amount of tax credits available in that year, then
11 taxpayers who have first applied for and have not been allowed a
12 tax credit or tax credit transfer certificate amount for that reason
13 shall be allowed, in the order in which they have submitted an
14 application, the amount of tax credit or tax credit transfer certificate
15 on the first day of the next succeeding fiscal year in which tax
16 credits and tax credit transfer certificates under subsection b. of this
17 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
18 5.39b) are not in excess of the amount of credits¹ available.

19 Notwithstanding any provision of this paragraph to the contrary,
20 for any fiscal year in which the amount of tax credits approved
21 pursuant to this paragraph is less than the cumulative total amount
22 of tax credits permitted to be approved in that fiscal year, the
23 authority shall certify the amount of the remaining tax credits
24 available for approval in that fiscal year, and shall increase the
25 cumulative total amount of tax credits permitted to be approved in
26 the subsequent fiscal year by the certified amount remaining from
27 the prior fiscal year. The authority shall also certify, for each fiscal
28 year, the amount of tax credits that were previously approved, but
29 that the taxpayer is not able to redeem or transfer to another
30 taxpayer under this section, and shall increase the cumulative total
31 amount of tax credits permitted to be approved in the subsequent
32 fiscal year by the amount of tax credits previously approved, but not
33 subject to redemption or transfer.

34 g. A taxpayer shall submit to the authority and the director a
35 report prepared by an independent certified public accountant
36 licensed in this State to verify the taxpayer's tax credit claim
37 following the completion of the production. The report shall be
38 prepared by the independent certified public accountant pursuant to
39 agreed upon procedures prescribed by the authority and the director,
40 and shall include such information and documentation as shall be
41 determined to be necessary by the authority and the director to
42 substantiate the qualified film production expenses or the qualified
43 digital media content production expenses of the taxpayer. A single
44 report with attachments deemed necessary by the authority shall be
45 submitted electronically. Upon receipt of the report, the authority
46 and the director shall review the findings of the independent
47 certified public accountant's report, and shall make a determination

1 as to the qualified film production expenses or the qualified digital
2 media content production expenses of the taxpayer. The authority's
3 and the director's review shall include, but shall not be limited to: a
4 review of all non-payroll qualified film production expense items
5 and non-payroll digital media content production expense items
6 over \$20,000; a review of 100 randomly selected non-payroll
7 qualified film production expense items and non-payroll digital
8 media content production expense items that are greater than
9 \$2,500, but less than \$20,000; a review of 100 randomly selected
10 non-payroll qualified film production expense items and non-
11 payroll digital media content production expense items that are less
12 than \$2,500; a review of the qualified wages for the 15 employees,
13 independent contractors, or loan-out companies with the highest
14 qualified wages; and a review of the qualified wages for 35
15 randomly selected employees, independent contractors, or loan-out
16 companies with qualified wages other than the 15 employees,
17 independent contractors, or loan-out companies with the highest
18 qualified wages. The taxpayer's qualified film production expenses
19 and digital media content production expenses shall be adjusted
20 based on any discrepancies identified for the reviewed non-payroll
21 qualified film production expense items, non-payroll digital media
22 content production expense items and qualified wages. The
23 taxpayer's qualified film production expenses and digital media
24 content production expenses also shall be adjusted based on the
25 projection of any discrepancies identified based on the review of
26 randomly selected expense items or wages pursuant to this
27 subsection to the extent that the discrepancies exceed one percent of
28 the total reviewed non-payroll qualified film production expense
29 items, non-payroll digital media content production expense items,
30 or qualified wages. The determination shall be provided in writing
31 to the taxpayer, and a copy of the written determination shall be
32 included in the filing of a return that includes a claim for a tax
33 credit allowed pursuant to this section.

34 h. A taxpayer shall withhold from each payment to a loan out
35 company or to an independent contractor an amount equal to 6.37
36 percent of the payment otherwise due. The amounts withheld shall
37 be deemed to be withholding of liability pursuant to the "New
38 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
39 taxpayer shall be deemed to have the rights, duties, and
40 responsibilities of an employer pursuant to chapter 7 of Title 54A of
41 the New Jersey Statutes. The director shall allocate the amounts
42 withheld for a taxable year to the accounts of the individuals who
43 are employees of a loan out company in proportion to the
44 employee's payment by the loan out company in connection with a
45 trade, profession, or occupation carried on in this State or for the
46 rendition of personal services performed in this State during the
47 taxable year. A loan out company that reports its payments to

1 employees in connection with a trade, profession, or occupation
2 carried on in this State or for the rendition of personal services
3 performed in this State during a taxable year shall be relieved of its
4 duties and responsibilities as an employer pursuant to chapter 7 of
5 Title 54A of the New Jersey Statutes for the taxable year for any
6 payments relating to the payments on which the taxpayer withheld.

7 i. As used in this section:

8 "Authority" means the New Jersey Economic Development
9 Authority.

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

13 "Commission" means the Motion Picture and Television
14 Development Commission.

15 "Digital media content" means any data or information that is
16 produced in digital form, including data or information created in
17 analog form but reformatted in digital form, text, graphics,
18 photographs, animation, sound, and video content. "Digital media
19 content" shall not mean content offerings generated by the end user
20 (including postings on electronic bulletin boards and chat rooms);
21 content offerings comprised primarily of local news, events,
22 weather or local market reports; public service content; electronic
23 commerce platforms (such as retail and wholesale websites);
24 websites or content offerings that contain obscene material as
25 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
26 content that are produced or maintained primarily for private,
27 industrial, corporate, or institutional purposes; or digital media
28 content acquired or licensed by the taxpayer for distribution or
29 incorporation into the taxpayer's digital media content.

30 "Film" means a feature film, a television series, or a television
31 show of 22 minutes or more in length, intended for a national
32 audience, or a television series or a television show of 22 minutes
33 or more in length intended for a national or regional audience,
34 including, but not limited to, a game show, award show, or other
35 gala event filmed and produced at a nonprofit arts and cultural
36 venue receiving State funding. "Film" shall not include a
37 production featuring news, current events, weather, and market
38 reports or public programming, talk show, sports event, or reality
39 show, a production that solicits funds, a production containing
40 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
41 3, or a production primarily for private, industrial, corporate, or
42 institutional purposes. "Film" shall not include an award show or
43 other gala event that is not filmed and produced at a nonprofit arts
44 and cultural venue receiving State funding.

45 "Full-time or full-time equivalent employee" means an individual
46 employed by the taxpayer for consideration for at least 35 hours a
47 week, or who renders any other standard of service generally

1 accepted by custom or practice as full-time or full-time equivalent
2 employment, whose wages are subject to withholding as provided in
3 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
4 who is a partner of a taxpayer, who works for the partnership for at
5 least 35 hours a week, or who renders any other standard of service
6 generally accepted by custom or practice as full-time or full-time
7 equivalent employment, and whose distributive share of income,
8 gain, loss, or deduction, or whose guaranteed payments, or any
9 combination thereof, is subject to the payment of estimated taxes, as
10 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq. "Full-time or full-time equivalent employee" shall not
12 include an individual who works as an independent contractor or on
13 a consulting basis for the taxpayer.

14 "Highly compensated individual" means an individual who
15 directly or indirectly receives compensation in excess of \$500,000
16 for the performance of services used directly in a production. An
17 individual receives compensation indirectly when the taxpayer pays
18 a loan out company that, in turn, pays the individual for the
19 performance of services.

20 "Incurred in New Jersey" means, for any application submitted
21 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
22 pursuant to which a tax credit has not been allowed prior to the
23 effective date of P.L.2021, c.160, service performed within New
24 Jersey and tangible personal property used or consumed in New
25 Jersey. A service is performed in New Jersey to the extent that the
26 individual performing the service is physically located in New
27 Jersey while performing the service. Notwithstanding where the
28 property is delivered or acquired, rented tangible property is used or
29 consumed in New Jersey to the extent that the property is located in
30 New Jersey during its use or consumption and is rented from a
31 vendor authorized to do business in New Jersey or the film
32 production company provides to the authority the vendor's
33 information in a form and manner prescribed by the authority.
34 Purchased tangible property is not used and consumed in New
35 Jersey unless it is purchased from a vendor authorized to do
36 business in New Jersey and is delivered to or acquired within New
37 Jersey; provided, however, that if a production is also located in
38 another jurisdiction, the purchased tangible property is used and
39 consumed in New Jersey if the acquisition and delivery of
40 purchased tangible property is located in either New Jersey or
41 another jurisdiction where the production takes place.

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

46 "Loan out company" means a personal service corporation or
47 other entity that is contracted with by the taxpayer to provide

1 specified individual personnel, such as artists, crew, actors,
2 producers, or directors for the performance of services used directly
3 in a production. "Loan out company" shall not include entities
4 contracted with by the taxpayer to provide goods or ancillary
5 contractor services such as catering, construction, trailers,
6 equipment, or transportation.

7 "New Jersey film-lease partner" means a taxpayer, including any
8 taxpayer that is a member of a combined group under P.L.2018,
9 c.131 (C:54:10A-4.11), that has made a commitment to lease or
10 acquire all or part of a New Jersey production facility **[with]** ,
11 which leased or acquired space shall have an aggregate square
12 footage of at least 50,000 square feet, **[which includes]** including a
13 sound stage and production support space, such as production
14 offices or a backlot, for a period of five or more successive years
15 and commits to spend, on a separate-entity basis or in the aggregate
16 with other members of the taxpayer's combined group, an annual
17 average of \$50,000,000 of qualified film production expenses over
18 the period of at least five but not to exceed 10 years.

19 "New Jersey studio partner" means a film production company
20 that has made a commitment to produce films or commercial
21 audiovisual products in New Jersey and has developed, purchased,
22 or executed a 10-year contract to lease a production facility of
23 250,000 square feet or more ¹**[as a "transformative project"**
24 **pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333)]¹. No
25 more than three film production companies may be designated as a
26 New Jersey studio partner.**

27 "Partnership" means an entity classified as a partnership for
28 federal income tax purposes.

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

33 "Pre-production costs" means the costs of the phase of
34 production of a film that precedes principal photography, in which a
35 detailed schedule and budget for the production is prepared, the
36 script and location is finalized, and contracts with vendors are
37 negotiated.

38 "Qualified digital media content production expenses" means an
39 expense incurred in New Jersey for the production of digital media
40 content. "Qualified digital media content production expenses"
41 shall include but not be limited to: wages and salaries of individuals
42 employed in the production of digital media content on which the
43 tax imposed by the "New Jersey Gross Income Tax Act,"
44 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
45 computer software and hardware, data processing, visualization
46 technologies, sound synchronization, editing, and the rental of

1 facilities and equipment. Payment made to a loan out company or
2 to an independent contractor shall not be deemed a "qualified digital
3 media content production expense" unless the payment is made in
4 connection with a trade, profession, or occupation carried on in this
5 State or for the rendition of personal services performed in this
6 State and the taxpayer has made the withholding required pursuant
7 to subsection h. of this section. "Qualified digital media content
8 production expenses" shall not include expenses incurred in
9 marketing, promotion, or advertising digital media or other costs
10 not directly related to the production of digital media content.
11 Costs related to the acquisition or licensing of digital media content
12 by the taxpayer for distribution or incorporation into the taxpayer's
13 digital media content shall not be deemed "qualified digital media
14 content production expenses."

15 "Qualified film production expenses" means an expense incurred
16 in New Jersey for the production of a film including pre-production
17 costs and post-production costs incurred in New Jersey. "Qualified
18 film production expenses" shall include but not be limited to:
19 wages and salaries of individuals employed in the production of a
20 film on which the tax imposed by the "New Jersey Gross Income
21 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
22 costs for tangible personal property used, and services performed,
23 directly and exclusively in the production of a film, such as
24 expenditures for film production facilities, props, makeup,
25 wardrobe, film processing, camera, sound recording, set
26 construction, lighting, shooting, editing, and meals. Payment made
27 to a loan out company or to an independent contractor shall not be
28 deemed a "qualified film production expense" unless the payment is
29 made in connection with a trade, profession, or occupation carried
30 on in this State or for the rendition of personal services performed
31 in this State and the taxpayer has made the withholding required by
32 subsection h. of this section. "Qualified film production expenses"
33 shall not include: expenses incurred in marketing or advertising a
34 film; and payment in excess of \$500,000 to a highly compensated
35 individual for costs for a story, script, or scenario used in the
36 production of a film and wages or salaries or other compensation
37 for writers, directors, including music directors, producers, and
38 performers, other than background actors with no scripted lines,
39 except as follows:

40 (1) for a New Jersey studio partner that incurs more than
41 \$15,000,000, but less than \$50,000,000, in qualified film production
42 expenses in the State, an amount, not to exceed \$15,000,000, of the
43 wages or salaries or other compensation for writers, directors,
44 including music directors, producers, and performers, other than
45 background actors with no scripted lines, shall constitute qualified
46 film production expenses;

1 (2) for a New Jersey studio partner that incurs \$50,000,000 or
2 more, but less than \$100,000,000, in qualified film production
3 expenses in the State, an amount, not to exceed \$25,000,000, of the
4 wages or salaries or other compensation for writers, directors,
5 including music directors, producers, and performers, other than
6 background actors with no scripted lines, shall constitute qualified
7 film production expenses;

8 (3) for a New Jersey studio partner that incurs \$100,000,000 or
9 more, but less than \$150,000,000, in qualified film production
10 expenses in the State, an amount, not to exceed \$40,000,000, of the
11 wages or salaries or other compensation for writers, directors,
12 including music directors, producers, and performers, other than
13 background actors with no scripted lines, shall constitute qualified
14 film production expenses; **[and]** ¹and¹

15 (4) for a New Jersey studio partner that incurs \$150,000,000 or
16 more in qualified film production expenses in the State, an amount,
17 not to exceed \$60,000,000, of the wages or salaries or other
18 compensation for writers, directors, including music directors,
19 producers, and performers, other than background actors with no
20 scripted lines, shall constitute qualified film production expenses¹**];**
21 and

22 (5) for a New Jersey film-lease partner, an amount, not to
23 exceed \$15,000,000, of the payments in excess of \$500,000 to each
24 highly compensated individual for costs for a story, script, or
25 scenario used in the production of a film and wages or salaries or
26 other compensation for writers, directors, including music directors,
27 producers, and performers, other than background actors with no
28 scripted lines, shall constitute qualified film production expenses¹**].**

29 "Total digital media content production expenses" means costs
30 for services performed and property used or consumed in the
31 production of digital media content.

32 "Total film production expenses" means costs for services
33 performed and tangible personal property used or consumed in the
34 production of a film.

35 (cf: P.L.2021, c.160, s.59)

36
37 ¹3. Section 4 of P.L.2018, c.56 is amended to read as follows:

38 4. a. A taxpayer, upon approval of an application to the authority
39 and the director, shall be allowed a credit against the tax imposed
40 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or under the
41 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an
42 amount equal to 2 percent of the qualified film or digital media content
43 production expenses of the taxpayer during a privilege period or
44 taxable year commencing on or after July 1, 2018 but before July 1,
45 **[2028]** 2034, provided that:

1 **[a.]** (1) the application is accompanied by a diversity plan
2 outlining specific goals, which may include advertising and
3 recruitment actions, for hiring minority persons and women;

4 **[b.]** (2) the director and the authority have approved the plan as
5 meeting the requirements established by the director and the authority;
6 and

7 **[c.]** (3) the director and the authority have verified that the
8 applicant has met or made good faith efforts in achieving those goals.

9 **b.** The amount of a tax credit allowed pursuant to subsection a. of
10 this section shall increase to four percent of the qualified film or digital
11 media content production expenses of the taxpayer if the diversity
12 plan, in addition to meeting the requirements of subsection a. of this
13 section, outlines specific goals that include hiring persons as
14 ²[credited]² performers in the film or digital media production who
15 ²are²: (i) ²[are]² members of ethnic minority groups that are
16 underrepresented in film or digital media productions; (ii) ²[have
17 been] if credited, residents of New Jersey for at least 12 months
18 preceding the beginning of filming or recording, and if uncredited,²
19 residents of any municipality in New Jersey in which filming occurs as
20 part of the production for at least 12 months preceding the beginning
21 of filming or recording at that location, or any surrounding
22 municipality; and (iii) ²[are]² members of a bona fide labor union
23 representing film and television performers.

24 **c.** The director and the authority shall adopt any rules necessary
25 to implement this provision.

26 **d.** The application shall indicate whether the applicant intends to
27 participate in training, education, and recruitment programs that are
28 organized in cooperation with State colleges and universities, labor
29 organizations, and the motion picture industry and are designed to
30 promote and encourage the training and hiring of New Jersey residents
31 who represent the diversity of the State population.¹

32 (cf: P.L.2019, c.506, s.3)

33
34 ¹4. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
35 read as follows:

36 98. a. The combined value of all tax credits awarded under the
37 "Historic Property Reinvestment Act," sections 1 through 8 of
38 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the
39 "Brownfield Redevelopment Incentive Program Act," sections 9
40 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);
41 the "New Jersey Innovation Evergreen Act," sections 20 through 34
42 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food
43 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
44 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-
45 Anchored Development Act," sections 43 through 53 of P.L.2020,
46 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire

1 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
2 322 through C.34:1B-335); the "Emerge Program Act," sections 68
3 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of
4 P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of
5 \$11.5 billion over a seven-year period, subject to the conditions and
6 limitations set forth in this section. Of this \$11.5 billion, \$2.5
7 billion shall be reserved for transformative projects approved under
8 the Aspire Program.

9 b. (1) The total value of tax credits awarded under any
10 constituent program of the "New Jersey Economic Recovery Act of
11 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
12 following annual limitations, except as otherwise provided in
13 subsection c. of this section:

14 (a) for tax credits awarded under the "Historic Property
15 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
16 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
17 annually awarded during each of the first six years of the seven-year
18 period shall not exceed \$50 million;

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

24 (c) for tax credits awarded under the "New Jersey Innovation
25 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
26 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
27 annually awarded during each of the first six years of the seven-year
28 period shall not exceed \$60 million and the total value of tax credits
29 awarded over the entirety of the seven-year program shall not
30 exceed \$300,000,000;

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

36 (e) for tax credits awarded under the "New Jersey Community-
37 Anchored Development Act," sections 43 through 53 of P.L.2020,
38 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
39 credits annually awarded during each of the first six years of the
40 seven-year period shall not exceed \$200 million, except that during
41 each of the first six years of the seven-year period, the authority
42 shall annually award tax credits valuing no greater than \$130
43 million for projects located in the 13 northern counties of the State,
44 and the authority shall annually award tax credits valuing no greater
45 than \$70 million for projects located in the eight southern counties
46 of the State. If during any of the first six years of the seven-year
47 period, the authority awards tax credits in an amount less than the

1 annual limitation for projects located in northern counties or
2 southern counties, as applicable, the uncommitted portion of the
3 annual limitation shall be available to be deployed by the authority
4 in a subsequent year, provided that the uncommitted portion of tax
5 credits shall be awarded for projects located in the applicable
6 geographic area, except that (i) after the completion of the third
7 year of the seven-year period, the authority may deploy 50 percent
8 of the uncommitted portion of tax credits from any previous year
9 without consideration to the county in which a project is located;
10 and (ii) after the completion of the sixth year of the seven-year
11 period, the authority may deploy all available tax credits, including
12 the uncommitted portion of the annual limitation for any previous
13 year, without consideration to the county in which a project is
14 located;

15 (f) for tax credits awarded under the "New Jersey Aspire
16 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
17 322 through C.34:1B-335), and the "Emerge Program Act," sections
18 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
19 including tax credits awarded for transformative projects, the total
20 value of tax credits annually awarded during each of the first six
21 years of the seven-year period shall not exceed \$1.1 billion. If the
22 authority awards tax credits in an amount less than the annual
23 limitation, then the uncommitted portion of the annual limitation
24 shall be made available for qualified offshore wind projects
25 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),
26 pursuant to subparagraph (h) of this paragraph, or New Jersey
27 studio partners and New Jersey film-lease partners awarded under
28 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
29 12b), pursuant to subparagraph (i) of this paragraph. During each
30 of the first six years of the seven-year period, the authority shall
31 annually award tax credits valuing no greater than \$715 million for
32 projects located in the northern counties of the State, and the
33 authority shall annually award tax credits valuing no greater than
34 \$385 million for projects located in the southern counties of the
35 State under the "New Jersey Aspire Program Act," sections 54
36 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
37 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
38 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
39 seven-year period, the authority awards tax credits under the "New
40 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
41 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
42 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
43 336 et al.), in an amount less than the annual limitation for projects
44 located in northern counties or southern counties, as applicable, the
45 uncommitted portion of the annual limitation shall be available to
46 be deployed by the authority in a subsequent year, provided that the
47 uncommitted portion of tax credits shall be awarded for projects

1 located in the applicable geographic area, except that (i) after the
2 completion of the third year of the seven-year period, the authority
3 may deploy 50 percent of the uncommitted portion of tax credits for
4 any previous year without consideration to the county in which a
5 project is located; and (ii) after the completion of the sixth year of
6 the seven-year period, the authority may deploy all available tax
7 credits, including the uncommitted portion of the annual limitation
8 for any previous year, without consideration to the county in which
9 a project is located;

10 (g) for tax credits awarded for transformative projects under the
11 "New Jersey Aspire Program Act," sections 54 through 67 of
12 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), the total
13 value of tax credits awarded during the seven-year period shall not
14 exceed \$2.5 billion. The total value of tax credits awarded for
15 transformative projects in a given year shall not be subject to an
16 annual limitation, except that the total value of tax credits awarded
17 to any transformative project shall not exceed \$350 million;

18 (h) from the tax credits made available, pursuant to
19 subparagraph (f) of this paragraph, to the "New Jersey Aspire
20 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
21 322 through C.34:1B-335), and the "Emerge Program Act," sections
22 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
23 including tax credits awarded for transformative projects, an
24 amount not to exceed \$350,000,000 shall be made available for
25 qualified offshore wind projects awarded a credit pursuant to
26 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
27 years of the seven-year period; and

28 (i) beginning in fiscal year 2025, from the tax credits made
29 available, pursuant to subparagraph (f) of this paragraph, to the
30 "New Jersey Aspire Program Act," sections 54 through 67 of
31 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
32 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
33 (C.34:1B-336 et al.), not including tax credits awarded for
34 transformative projects, additional amounts shall be made available
35 for New Jersey studio partners and New Jersey film-lease partners
36 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
37 C.54A:4-12b).

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

44 (i) the increased demand for opportunities to create or retain
45 employment and investment in the State as indicated by the volume
46 of project applications and the amount of tax credits being sought
47 by those applications;

- 1 (ii) the need to protect the State's economic position in the event
2 of an economic downturn;
- 3 (iii) the quality of project applications and the net economic
4 benefit to the State and municipalities associated with those
5 applications;
- 6 (iv) opportunities for project applications to strengthen or protect
7 the competitiveness of the state under the prevailing market
8 conditions;
- 9 (v) enhanced access to employment and investment for
10 underserved populations in distressed municipalities and qualified
11 incentives tracts;
- 12 (vi) increased investment and employment in high-growth
13 technology sectors and in projects that entail collaboration with
14 education institutions in the State;
- 15 (vii) increased development proximate to mass transit facilities;
- 16 (viii) any other factor deemed relevant by the authority.
- 17 c. In the event that the authority in any year approves projects
18 for tax credits in an amount less than the annual limitations set forth
19 in paragraph (1) of subsection b. of this section, then the
20 uncommitted portion of the annual limitation shall be available to
21 be deployed by the authority in future years for projects under the
22 same program; provided however, that in no event shall the
23 aggregate amount of tax credits approved be in excess of the overall
24 cap of \$11.5 billion, and in no event shall the uncommitted portion
25 of the annual limitation for any previous year be deployed after the
26 conclusion of the seven-year period.¹
- 27 (cf: P.L.2021, c.160, s.47)
- 28

29 ¹**[3.] 5.**¹ This act shall take effect immediately.