

NJ S 3748, Enacted - Interim

New Jersey

SUMMARY: Transfers Motion Picture and Television Development Commission to Economic Development Authority; revises provisions of film and digital media content production tax credit program; appropriates a specified amount.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

03/20/2023 FILED.

03/20/2023 INTRODUCED.

03/20/2023 To SENATE Committee on BUDGET AND APPROPRIATIONS.

06/20/2023 From SENATE Committee on BUDGET AND APPROPRIATIONS as substituted.

06/26/2023 Amended on SENATE floor.

06/30/2023 Passed SENATE. *****To ASSEMBLY.

06/30/2023 Received in the ASSEMBLY without Reference.

06/30/2023 Substituted for A5393.

06/30/2023 Passed ASSEMBLY.

07/06/2023 Signed by GOVERNOR.

07/06/2023 Chapter No. 2023-97

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session: New Jersey 220th Legislature

cite: 2022 NJ S 3748

Enacted - Interim

July 6, 2023

Gopal

P.L.2023, CHAPTER 97, approved July 6, 2023

Senate, No. 3748

STATE OF NEW JERSEY

220th LEGISLATURE

An Act concerning the production of certain films and digital media content, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.), amending various parts of the statutory law, and making an appropriation.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. (New section) a. The Motion Picture and Television Development Commission, established pursuant to section 3 of P.L.1977, c.44 (C.34:1B-24), transferred in, but not of, the Division of Business Assistance, Marketing, and International Trade pursuant to section 24 of P.L.2008, c.27 (C.34:1B-233), and continued and transferred in, but not of, the Business Action Center in the Department of State pursuant to Reorganization Plan No. 003-2011, is transferred in the New Jersey Economic Development Authority. Notwithstanding the provisions of any law to the contrary, the commission shall operate under the supervision and direction of the Chief Executive Officer of the New Jersey Economic Development Authority.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Motion Picture and Television Development Commission, the same shall mean and refer to the Motion Picture and Television Development Commission in the New Jersey Economic Development Authority.

c. The obligation of the Division of Business Assistance, Marketing, and International Trade to provide staff services necessary to support the functions of the Motion Picture and Television Development Commission pursuant to subsection c. of section 24 of P.L.2008, c.27 (C.34:1B-233) is transferred to the New Jersey Economic Development Authority.

d. The transfer directed by this section shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.) and shall include all files, books, papers, records, equipment, and other property held by the commission, including, without limitation, funds and other resources, and personnel. All funds to be transferred shall be deposited in accounts as may be required by law.

2. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project in qualifying municipalities as defined under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, or revenues, whenever it shall find such action to be in furtherance of the purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation

and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and conditions thereof;

k. In connection with any action undertaken by the authority in the performance of its duties and any application for assistance or commitments therefor and modifications thereof, to require and collect such fees and charges as the authority shall determine to be reasonable, including but not limited to fees and charges for the authority's administrative, organizational, insurance, operating, legal, and other expenses;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, of such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the redevelopment utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and to fix and pay their compensation from funds available to the redevelopment utility therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), under, through or by means of its own officers, agents and employees, or by contract with any person;

u. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the redevelopment utility to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts, the New Jersey Schools Development Authority, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

aa. (Deleted by amendment, P.L.2007, c.137);

bb. To make and contract to make loans to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the

payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units;

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto;

hh. To offer financial assistance to qualified film production companies as provided in the "New Jersey Film Production Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

ii. To finance or develop private or public parking facilities or structures, which may include the use of solar photovoltaic equipment, in municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and to provide appropriate assistance, including but not limited to, extensions of credit, loans, and guarantees, to municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and their agencies and instrumentalities or to private entities whose projects are located in those municipalities, in order to facilitate the financing and development of parking facilities or structures in such municipalities. The authority may serve as the issuing agent of bonds to finance the undertaking of a project for the purposes of this subsection;

jj. To make grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority shall deem reasonable, during periods of emergency declared by the Governor and for the duration of economic disruptions due to the emergency; **and**

kk. To purchase and lease real property at a nominal rate when it would result in a net economic benefit to the State, enhance access to employment and investment for underserved populations, or increase investment and employment in high-growth technology sectors ; **and**

ll. To make investments of capital, not to exceed \$10,000,000 per project, in New Jersey film-lease partner facilities, as that term is defined in section 1 of P.L.2018,

c.56 (C.54:10A-5.39b) and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), subject to commercially reasonable and customary terms and conditions that as determined by the authority determines to be necessary and appropriate and the New Jersey film-lease partner facility.

(cf: P.L.2020, c.156, s.115)

3. Section 3 of P.L.1977, c.44 (C.34:1B-24) is amended to read as follows:

3. a. There is hereby established in ~~but not of the Division of Business Assistance, Marketing, and International Trade in~~ the New Jersey Economic Development Authority a Motion Picture and Television Development Commission.

b. The commission shall consist of ~~eight 10~~ public members, ~~no more than four of whom shall be members of the same political party~~, who shall be appointed by the Governor with the advice and consent of the Senate, and the ***Chief Executive Officer of the New Jersey Economic Development Authority, the Secretary of State, the*** Chairman of the New Jersey State Council on the Arts, and the Commissioner of Labor and Workforce Development or their designees serving in an ex officio capacity. The Governor shall appoint from the ~~ten 14~~ members a chairman who shall serve in that office at the pleasure of the Governor.

c. The public members of the commission shall be appointed initially for the following terms: three members for a term of two years; three members for a term of three years; and two members for a term of four years. ***The two public members appointed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be appointed for an initial term of four years.*** The initial members shall serve from the date of the original appointment for the aforementioned specified terms and until their respective successors shall be duly appointed and qualified. The term of each such appointed member shall be designated by the Governor at the time of his appointment. The successors to the initially appointed members shall each be appointed for a term of four years, except that any person appointed to fill a vacancy shall serve only for the unexpired term.

d. The members of the commission shall serve without compensation, but the commission may reimburse its members for necessary expenses incurred in the discharge of their duties.

e. Notwithstanding the provisions of subsection b. of this section, or of any other law to the contrary, the Governor shall directly appoint the two public members added by P.L. , c. (C.) (pending before the Legislature as this bill) to the commission. Upon the expiration of the initial term of each public member appointed pursuant to this subsection, members of the commission shall be appointed pursuant to subsections b. and c. of this section.

(cf: P.L.2010, c.104, s.17)

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

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of \$11.5 billion over a seven-year period, subject to the conditions and limitations set forth in this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

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

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

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

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

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

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$200 million, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than \$130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$70 million for projects located in the eight southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease **partners production companies** awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph **and subsection d. of this section**. During each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than \$715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the seven-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by

the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

(i) beginning in fiscal year ~~2025~~ **2023**, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease **partners production companies** pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

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

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

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

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

(iv) opportunities for project applications to strengthen or protect the competitiveness of the state under the prevailing market conditions;

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

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

(vii) increased development proximate to mass transit facilities;

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

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

event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the seven-year period.

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

(1) in fiscal year ~~2024~~ 2023 , \$250,000,000 for New Jersey studio partners and \$250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year ~~2025~~ 2024 , \$250,000,000 for New Jersey studio partners and \$250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year ~~2026~~ 2025 , \$250,000,000 for New Jersey studio partners and \$250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2021, c.367, s.4)

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

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to , *in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent* , of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, ~~2034~~ 2039, provided that:

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

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

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

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

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

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

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, ~~2034~~ **2039**, provided that:

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

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

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

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

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

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu

of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease **partners production companies**, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ~~2035~~ **2040**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for New Jersey film-lease **partners production companies** and the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, **and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362)**, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ~~2034~~ **2024, and shall not exceed a cumulative total of \$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ~~2025~~ **2023**, in addition to the ~~\$100,000,000~~ **cumulative total tax credits** made available for New Jersey studio partners pursuant to this paragraph **and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362)**, up to an additional ~~\$350,000,000~~ **\$400,000,000** may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for New Jersey studio partners and the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, **and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362)**, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease **partners production companies** shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ~~2034~~ **2024, and shall not exceed a cumulative total of**

\$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ~~2025~~ **2023**, in addition to the ~~\$100,000,000~~ **cumulative total tax credits** made available for New Jersey film-lease ~~partners~~ **production companies** pursuant to this paragraph **and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362)**, up to an additional ~~\$100,000,000~~ **\$250,000,000** may be made available annually, in the discretion of the authority, to New Jersey film-lease ~~partners~~ **production companies** for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease ~~partners~~ **production companies** shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. ~~If in any privilege period, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation has been submitted, until a privilege period when the annual average of qualified film production expenses has been restored to \$50,000,000.~~ **Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a New Jersey studio partner, the authority shall recapture the portion of the tax credit that was only available to the taxpayer by virtue of the taxpayer's designation as a New Jersey studio partner, and all films for which an initial approval has been given, but for which the authority has not approved final documentation, shall terminate.** The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall ~~be allowed, in the order in which they have submitted an application, have~~

their applications approved by the authority, provided the application otherwise satisfies the requirements of this section, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease **partners production companies**, or taxpayers other than New Jersey studio partners and New Jersey film-lease **partners production companies** pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved ~~to each such category, to each such category,~~ in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval ~~to each such category to each such category~~ in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease **partners production companies**, or taxpayers other than New Jersey studio partners and New Jersey film-lease **partners production companies** in the subsequent fiscal year by the certified amount remaining ~~for each such category for each such category~~ from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease **partners production companies**, or taxpayers other than New Jersey studio partners and New Jersey film-lease **partners production companies** in the subsequent fiscal year by the amount of tax credits previously approved ~~for each such category for each such category,~~ but not subject to redemption or transfer. ~~In each fiscal year in which tax credits remain unapproved for, or unredeemed or not transferred by, New Jersey studio partners, New Jersey film-lease partners production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners production companies, the authority may reallocate some or all of such remaining tax credits in the subsequent fiscal year between the category of New Jersey film-lease partners and the category of taxpayers other than New Jersey studio partners and New Jersey film-lease partners in lieu of increasing the tax credits available for the respective category by the amount reallocated to each category in the authority's discretion.~~

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ~~2035~~ **2040** to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for

each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. ***A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than two years after the date on which the production concludes. The deferred compensation payments shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review.*** The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than \$2,500, but less than \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than \$2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

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

be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

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

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

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

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

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

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

"Eligibility period" means, with respect to New Jersey studio partners, the period in which a New Jersey studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the taxpayer's designation as a New Jersey studio partner, beginning the earlier of the commencement of the principal photography for the New Jersey studio partner's initial film in New Jersey or, in the case of a taxpayer developing or purchasing a production facility, at the issuance of a temporary certificate of occupancy for the production facility developed or purchased as a condition of designation as a New Jersey studio partner and, in the case of a taxpayer leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not more than 10 years.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, ***talk show, competition or variety show filmed before a live audience***, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, ~~talk show~~, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of 24 months, and invests no less than \$3,000,000 in such a facility within a

designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

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

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

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. **Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection g. of this section.**

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

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

(1) (a) a production facility in New Jersey whose owner or developer has made the commitment to build, lease, or operate a production facility of 250,000 square feet or more, including a sound stage and production support space, such as production offices, mill space, or a backlot, for a period of five or more successive years, as evidenced by site plan approval or an executed redevelopment

agreement with a governmental entity for the purpose of developing a production facility of 250,000 square feet or more ;

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

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

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

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

"New Jersey film-lease ~~partner production company~~" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or ~~acquire all or part of~~ otherwise occupy production space in a New Jersey ~~production facility, which leased or acquired space shall have an aggregate square footage of at least 50,000 square feet, including a sound stage and production support space, such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years~~ film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey and who will shoot at least 50 percent of the total principal photography shoot days within New Jersey at the New Jersey film-lease partner facility. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of

such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.).

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more , or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, the authority may rescind the New Jersey studio partner designation and may recapture from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf such that the designated New Jersey studio partner controls such film or product during pre-production, production, and post-production, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey studio partner pursuant to the provisions of the federal "Copyright Act of 1976, " **Pub.L.94-552** (17 U.S.C. s.101 et seq.). No more than three film production companies may be designated as a New Jersey studio partner.

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

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

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

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. ***Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection g. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by New Jersey studio partners, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than two years after the date on which the production concludes.*** "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs ~~more than \$15,000,000, but~~ less than \$50,000,000 ; in qualified film production expenses in the State, ***an in excess of amounts paid to highly compensated individuals, an additional*** amount, not to exceed ~~\$15,000,000~~ ***\$18,000,000***, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; ***and***

(2) ~~for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;~~ ***(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)***

(3) ~~for a New Jersey studio partner that incurs \$100,000,000 or more, but less than \$150,000,000, in qualified film production expenses in the State, an amount, not to exceed \$40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;~~ ***and (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)***

(4) for a New Jersey studio partner that incurs ~~\$150,000,000~~ ***\$50,000,000*** or more in qualified film production expenses in the State, ***an in excess of amounts paid to highly compensated individuals, an additional*** amount, not to exceed ~~\$60,000,000~~ ***\$72,000,000***, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses ; ***and***

(5) for a New Jersey film-lease production company that incurs less than

\$50,000,000 in qualified film production expenses in the State, ~~an amount~~ in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

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

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

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

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

(cf: P.L.2021, c.367, s.1)

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

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to , *in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company, 40 percent, and in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, 35 percent* , of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, ~~2034~~ **2039**, provided that:

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

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

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

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

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

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

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 30 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, ~~2034~~ **2039**, provided that:

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

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

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

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

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

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

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

taxable year ending within or with the taxpayer's taxable year.

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

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

e. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease **partners production companies**, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ~~2035~~ **2040** to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for New Jersey film-lease **partners production companies** and the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, **and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362)**, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ~~2034~~ **2024, and shall not exceed a cumulative total of \$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ~~2025~~ **2023**, in addition to the ~~\$100,000,000~~ **cumulative total tax credits** made available for

New Jersey studio partners pursuant to this paragraph **and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362)**, up to an additional ~~\$350,000,000~~ **\$400,000,000** may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for New Jersey studio partners and the ~~\$100,000,000~~ limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, **and except as provided in section 98 of P.L.2020, c.156 (C.34:1B-362)**, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease **partners production companies** shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ~~2034~~ **2024, and shall not exceed a cumulative total of \$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040**, to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year ~~2025~~ **2023**, in addition to the ~~\$100,000,000~~ **cumulative total tax credits** made available for New Jersey film-lease **partners production companies** pursuant to this paragraph **and subsection d. of section 98 of P.L.2020, c.156 (C.34:1B-362)**, up to an additional ~~\$100,000,000~~ **\$250,000,000** may be made available annually, in the discretion of the authority, to New Jersey film-lease **partners production companies** for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). Approvals made to New Jersey studio partners and New Jersey film-lease **partners production companies** shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. ~~If in any taxable year, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation has been submitted, until a taxable year when the annual average of qualified film production expenses has been restored to \$50,000,000.~~ **Notwithstanding any provision of this subsection or other law to the contrary, if a film production company designated as a New Jersey studio partner ceases to qualify for its designation as a New Jersey film studio partner and becomes designated as a New Jersey film-lease partner facility, the authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey film-lease production companies in each fiscal year by a corresponding amount pursuant to a formula established in rules adopted by the authority which shall consider the volume of applications submitted by New Jersey studio partners and New Jersey film-lease production facilities, the cumulative total amount of tax credits allowed to New Jersey studio partners and New Jersey film-lease production facilities in the prior fiscal year, the total square footage of facility space occupied in the State by New Jersey studio partners and New Jersey film-lease production facilities, and any other factors that the authority deems appropriate. Award agreements between the authority and New Jersey studio partners shall include a requirement for each New Jersey studio partner to occupy the production facility developed, purchased, or leased as a condition of designation as a New Jersey studio partner for the duration of the commitment period. If a New Jersey studio partner fails to occupy the production**

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

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

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved to New Jersey studio partners, New Jersey film-lease ~~partners production companies,~~ *partners production companies,* or taxpayers other than New Jersey studio partners and New Jersey film-lease ~~partners production companies~~ pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved ~~to each such category to each such category~~ in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval ~~to each such category to each such category~~ in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease ~~partners production companies,~~ *partners production companies,* or taxpayers other than New Jersey studio partners and New Jersey film-lease ~~partners production companies~~ in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners, New Jersey film-lease ~~partners production companies,~~ *partners production companies,* or taxpayers other than New Jersey studio partners and New Jersey film-lease ~~partners production companies~~ in the subsequent fiscal year by the amount of tax credits previously approved ~~for each such category for each such category,~~ but not subject to redemption or transfer. ~~In each fiscal year in which tax credits remain unapproved for, or unredeemed or not transferred by, New Jersey studio partners, New Jersey film-lease partners production companies, or taxpayers other than New Jersey studio partners and New Jersey film-lease partners production companies, the authority may reallocate some or all of such remaining tax credits in the subsequent fiscal year between the category of New Jersey film-lease partners and the category of taxpayers other than New Jersey studio partners and New Jersey film-lease partners in lieu of increasing the tax credits available for the respective category by the amount reallocated to each category in the authority's discretion.~~

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of \$30,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year ~~2035~~ *2040* to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

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

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. ***A New Jersey studio partner that makes deferred compensation payments based on work or services provided on a production may file a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than two years after the date on which the production concludes. The deferred compensation payments shall constitute qualified film production expenses as if the expenses were incurred at the time of production, provided there are credits available and subject to the authority's review.*** The report shall be prepared by the independent certified public accountant pursuant to agreed-upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than \$2,500, but less than \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than \$2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content

production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company ~~or~~, to an independent contractor, ***or to a homeowner for the use of a personal residence*** an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

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

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

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

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

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

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

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

term for the production facility leased as a condition of designation as a New Jersey studio partner, and extending thereafter for a term of not more than 10 years.

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

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

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

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place. ***Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided the taxpayer has made the withholding required by subsection h. of this section.***

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

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers,

or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" means:

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

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

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

(2) A film production company that executes at least a 10-year lease for 250,000 square feet or more from a New Jersey film-lease partner facility shall be eligible to be designated as a New Jersey studio partner, provided the film production company otherwise complies with the eligibility requirements of the program.

(3) Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a New Jersey studio partner by the authority on or before the 181st day next following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), in order for a production facility to be designated as a New Jersey film-lease partner facility, the owner or developer shall accept the acquisition by the authority, at the authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the authority and the New Jersey film-lease partner facility. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

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

"New Jersey film-lease partner production company" means a taxpayer, including any taxpayer that is a member of a combined group under section 23 of P.L.2018, c.48 (C.54:10A-4.11) or any other entity in which the film-lease production company has a material ownership interest and material operational role in the production, that otherwise complies with the eligibility requirements of the Film and Digital Media Tax Credit Program and has made a commitment to lease or ~~acquire all or part of~~ otherwise occupy production space in a New Jersey ~~production facility, which leased or acquired space shall have an aggregate square footage of at least 50,000 square feet, including a sound stage and production support space, such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years~~ film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the project within New Jersey and who will shoot at

least 50 percent of the total principal photography shoot days within New Jersey at the New Jersey film-lease partner facility. A "New Jersey film-lease production company" may include any other member of a taxpayer's combined group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey film-lease production company contracts to perform film production services on its behalf such that the designated New Jersey film-lease production company controls such film or product during preproduction, production, and postproduction and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey film-lease production company pursuant to the provisions of the federal "Copyright Act of 1976" (17 U.S.C. s.101 et seq.).

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more , or has executed a purchase contract with a governmental authority for the purpose of developing a production facility of 250,000 square feet or more within 48 months from the date of designation as a New Jersey studio partner; provided, however, the board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months. Effective upon designation as a New Jersey studio partner, a film production company shall be eligible for a credit pursuant to this section, provided the film production company otherwise complies with the eligibility requirements of Film and Digital Media Tax Credit Program. In the event the authority determines that a film production company has failed to meet the qualifications of a New Jersey studio partner or otherwise comply with the provisions of this section, the authority may rescind the New Jersey studio partner designation and may recapture from that film production company the portion of any tax credit that had been awarded to that film production company that was only available to the film production company by virtue of the film production company's designation as a New Jersey studio partner. A "New Jersey studio partner" may include any other member of a taxpayer's combined group, pursuant to P.L.2018, c.131 (C.54:10A-4.11), or an unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated New Jersey studio partner contracts to perform film production services on its behalf such that the designated New Jersey studio partner controls such film or product during pre-production, production, and post-production, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey studio partner pursuant to the provisions of the federal "Copyright Act of 1976," ~~Pub.L.94-552~~ (17 U.S.C. s.101 et seq.). No more than three film production companies may be designated as a New Jersey studio partner.

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

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

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

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor

shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. *Payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the taxpayer has made the withholding required by subsection h. of this section. For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by New Jersey studio partners, provided the New Jersey studio partner files a supplemental report prepared by an independent certified public accountant, pursuant to agreed-upon procedures prescribed by the authority and the director, no later than two years after the date on which the production concludes.* "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs ~~more than \$15,000,000, but~~ less than \$50,000,000 ~~;~~ in qualified film production expenses in the State, ~~an in excess of amounts paid to highly compensated individuals, an additional~~ amount, not to exceed ~~\$15,000,000~~ **\$18,000,000**, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) ~~for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;~~ *(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)*

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

~~expenses; and~~ *(Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)*

(4) for a New Jersey studio partner that incurs ~~\$150,000,000~~ *\$50,000,000* or more in qualified film production expenses in the State, ~~an in excess of amounts paid to highly compensated individuals, an additional~~ amount, not to exceed ~~\$60,000,000~~ *\$72,000,000*, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses ;

(5) for a New Jersey film-lease production company that incurs less than \$50,000,000 in qualified film production expenses in the State, an amount in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music ~~director~~ directors , producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

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

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

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

(cf: P.L.2021, c.367, s.2)

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

4. a. A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c. 162 (C.54:10A-5) or under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in an amount equal to ~~2~~ *two* percent of the qualified film or digital media content production expenses of the taxpayer during a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, ~~2034~~ *2039*, provided that:

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

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

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

b. The amount of a tax credit allowed pursuant to subsection a. of this section shall increase to four percent of the qualified film or digital media content production expenses of the taxpayer if the diversity plan, in addition to meeting the requirements of subsection a. of this section, outlines specific goals that include hiring persons as performers in the film or digital media production who are: (i) *women or* members of ~~ethnie a~~ *minority groups that are underrepresented in film or digital media productions group*; (ii) ~~if credited,~~ residents of New Jersey for at least 12 months preceding the beginning of filming or recording ; ~~and if uncredited, residents of any municipality in New Jersey in which filming occurs as part of the production for at least 12 months preceding the beginning of filming or recording at that location, or any surrounding municipality~~; and (iii) members of a bona fide labor union representing film and television performers.

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

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

(cf: P.L.2021, c.367, s.3)

8. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately upon filing with the Office of Administrative Law, regulations that the chief executive officer, in consultation with the Commissioner of Labor and Workforce Development, deems necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

9. (New section) There is appropriated from the General Fund to the New Jersey Economic Development Authority the sum of \$30,000,000 for the purpose of making investments authorized by subsection ll. of section 5 of P.L.1974, c.80 (C.34:1B-5).

10. This act shall take effect immediately.