

[Third Reprint]

**ASSEMBLY, No. 5580**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED JUNE 13, 2019

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Karabinchak, Assemblywomen Vainieri Huttler, Sumter,  
Assemblymen Armato, Mazzeo, Senators Lagana, Brown, Gill and  
Greenstein**

**SYNOPSIS**

Extends availability period for tax credits for certain expenses incurred for production of certain film and digital media content, raises annual cap related to film production, and provides for annual administration of film tax credits.

**CURRENT VERSION OF TEXT**

As amended by the Senate on January 13, 2020.

(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT <sup>1</sup>**[**extending the period of time for which **]** related to the  
2 provisions of<sup>1</sup> certain <sup>1</sup>**[**films **]** film<sup>1</sup> and digital media content  
3 tax credits <sup>1</sup>**[**may be applied **]**<sup>1</sup>, and amending P.L.2018, c.56.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

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

10 1. a. (1) A taxpayer, upon approval of an application to the  
11 authority and the director, shall be allowed a credit against the tax  
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
13 an amount equal to 30 percent of the qualified film production  
14 expenses of the taxpayer during a privilege period commencing on  
15 or after July 1, 2018 but before July 1, **[2023]** 2028, provided that:

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

22 (b) principal photography of the film commences within the  
23 earlier of 180 days from the date of the original application for the  
24 tax credit, or 150 days from the date of approval of the application  
25 for the tax credit;

26 (c) the film includes, when determined to be appropriate by the  
27 commission, at no cost to the State, marketing materials promoting  
28 this State as a film and entertainment production destination, which  
29 materials shall include placement of a "Filmed in New Jersey" or  
30 "Produced in New Jersey" statement, or an approved logo approved  
31 by the <sup>1</sup>**[**Commission **]** commission<sup>1</sup>, in the end credits of the film;

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

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

38 (2) Notwithstanding the provisions of paragraph (1) of <sup>1</sup>**[**this **]**<sup>1</sup>  
39 subsection a. <sup>1</sup>of this section<sup>1</sup> to the contrary, the tax credit allowed  
40 pursuant to this subsection against the tax imposed pursuant to  
41 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount  
42 equal to 35 percent of the qualified film production expenses of the  
43 taxpayer during a privilege period that are incurred for services  
44 performed and tangible personal property purchased through

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted November 14, 2019.

<sup>2</sup>Assembly floor amendments adopted November 25, 2019.

<sup>3</sup>Senate floor amendments adopted January 13, 2020.

1 vendors whose primary place of business is located in Atlantic,  
2 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer  
3 or Salem County.

4 b. (1) A taxpayer, upon approval of an application to the  
5 authority and the director, shall be allowed a credit against the tax  
6 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
7 an amount equal to 20 percent of the qualified digital media content  
8 production expenses of the taxpayer during a privilege period  
9 commencing on or after July 1, 2018 but before July 1, **[2023]**  
10 2028, provided that:

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

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

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

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

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

34 c. No tax credit shall be allowed pursuant to this section for  
35 any costs or expenses included in the calculation of any other tax  
36 credit or exemption granted pursuant to a claim made on a tax  
37 return filed with the director, or included in the calculation of an  
38 award of business assistance or incentive, for a period of time that  
39 coincides with the privilege period for which a tax credit authorized  
40 pursuant to this section is allowed. The order of priority in which  
41 the tax credit allowed pursuant to this section and any other tax  
42 credits allowed by law may be taken shall be as prescribed by the  
43 director. The amount of the tax credit applied under this section  
44 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
45 (C.54:10A-5), for a privilege period, when taken together with any  
46 other payments, credits, deductions, and adjustments allowed by  
47 law shall not reduce the tax liability of the taxpayer to an amount  
48 less than the statutory minimum provided in subsection (e) of

1 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax  
2 credit otherwise allowable under this section which cannot be  
3 applied for the privilege period due to the limitations of this  
4 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-  
5 1 et seq.) may be carried forward, if necessary, to the seven  
6 privilege periods following the privilege period for which the tax  
7 credit was allowed.

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

39 e. (1) <sup>3</sup>~~2(a)~~<sup>2</sup><sup>3</sup> The value of tax credits, including tax credits  
40 allowed through the granting of tax credit transfer certificates,  
41 approved by the director and the authority pursuant to subsection a.  
42 of this section and pursuant to subsection a. of section 2 of  
43 P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of  
44 <sup>1</sup>~~[\$75,000,000]~~ \$100,000,000<sup>1</sup> in fiscal year 2019 and in each  
45 fiscal year thereafter prior to fiscal year <sup>1</sup>~~[2024]~~ 2029<sup>1</sup> to apply  
46 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
47 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey  
48 Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative

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

14 <sup>1</sup>Notwithstanding any provision of paragraph (1) <sup>3</sup>[(a)]<sup>2</sup> of this  
15 subsection to the contrary, for any fiscal year in which the amount  
16 of tax credits approved pursuant to this paragraph is less than the  
17 cumulative total amount of tax credits permitted to be approved in  
18 that fiscal year, the authority shall certify the amount of the  
19 remaining tax credits available for approval in that fiscal year, and  
20 shall increase the cumulative total amount of tax credits permitted  
21 to be approved in the subsequent fiscal year by the certified amount  
22 remaining from the prior fiscal year. The authority shall also  
23 certify, for each fiscal year, the amount of tax credits that were  
24 previously approved, but that the taxpayer is not able to redeem or  
25 transfer to another taxpayer under this section, and shall increase  
26 the cumulative total amount of tax credits permitted to be approved  
27 in the subsequent fiscal year by the amount of tax credits previously  
28 approved, but not subject to redemption or transfer. The combined  
29 increase to the cumulative total permitted to be approved in a  
30 subsequent fiscal year pursuant to this paragraph shall not exceed  
31 \$50,000,000.<sup>1</sup>

32 <sup>3</sup>[(b) Any taxpayer with an application for a tax credit  
33 approved by the authority and the director pursuant to subsection a.  
34 or subsection b. of this section that leases a New Jersey production  
35 facility with a total square footage of at least 50,000 square feet,  
36 which includes a sound stage and production support space such as  
37 production offices or a backlot, for a period of five or more  
38 successive years and spends an annual average of \$50,000,000 of  
39 qualified film production expenses during the duration of that lease  
40 shall not be subject to the annual limitation on the cumulative total  
41 of tax credits provided for in paragraph (1) (a) of this subsection;  
42 provided however, the cumulative total of tax credits granted in the  
43 nine year period from fiscal year 2020 through fiscal year 2028  
44 pursuant to subsection a. of this section and subsection a. of section  
45 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed \$900,000,000  
46 plus the amount of remaining tax credits from Fiscal Year 2019 as  
47 certified pursuant to this subsection.

1     The qualified film production expenses of any taxpayer  
2 qualifying for a credit under paragraph (1) (b) of this subsection  
3 shall include any qualified film production expenses of that  
4 taxpayer's affiliates.

5     Any taxpayer qualifying for a credit under paragraph (1) (b) of  
6 this subsection shall not be eligible to apply for a tax credit transfer  
7 certificate under subsection d. of this section.

8     The order of priority in which the tax credit allowed under  
9 paragraph (1) (b) of this subsection and any other tax credits  
10 allowed by law may be taken shall be as prescribed by the director.

11 The amount of tax credits allowed under paragraph (1) (b) of this  
12 subsection that are applied against the tax imposed pursuant to  
13 section 5 of P.L.1945, c.162 (C.54:10A-5), for any privilege period  
14 shall not exceed 50 percent of the tax liability otherwise due, and  
15 when taken together with any other payments, credits, deductions,  
16 and adjustments allowed by law shall not reduce the tax liability of  
17 the taxpayer to an amount less than the statutory minimum provided  
18 in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The  
19 amount of the tax credits otherwise allowable under paragraph (1)  
20 (b) of this subsection which cannot be applied for the privilege  
21 period due to the limitations of this subsection or under other  
22 provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried  
23 forward, if necessary, to the seven privilege periods following the  
24 privilege period for which the tax credit was allowed.<sup>2</sup><sup>3</sup>

25     (2) The value of tax credits, including tax credits allowed  
26 through the granting of tax credit transfer certificates, approved by  
27 the authority and the director pursuant to subsection b. of this  
28 section and pursuant to subsection b. of section 2 of P.L.2018, c.56  
29 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in  
30 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year  
31 <sup>1</sup>~~2024~~ <sup>2029</sup><sup>1</sup> to apply against the tax imposed pursuant to section  
32 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to  
33 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If  
34 the total amount of tax credits and tax credit transfer certificates  
35 allowed to taxpayers for privilege periods or taxable years  
36 commencing during a single fiscal year under subsection b. of this  
37 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-  
38 12.b) exceeds the amount of tax credits available in that year, then  
39 taxpayers who have first applied for and have not been allowed a  
40 tax credit or tax credit transfer certificate amount for that reason  
41 shall be allowed, in the order in which they have submitted an  
42 application, the amount of tax credit or tax credit transfer certificate  
43 on the first day of the next succeeding fiscal year in which tax  
44 credits and tax credit transfer certificates under subsection b. of this  
45 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-  
46 12.b) are not in excess of the amount of credits available.

47     f. A taxpayer shall submit to the authority and the director a  
48 report prepared by an independent certified public accountant

1 licensed in this State to verify the taxpayer's tax credit claim  
2 following the completion of the production. The report shall be  
3 prepared by the independent certified public accountant pursuant to  
4 agreed upon procedures prescribed by the authority and the  
5 director<sup>1</sup> and shall include such information and  
6 documentation as shall be determined to be necessary by the  
7 authority and the director to substantiate the qualified film  
8 production expenses or the qualified digital media content  
9 production expenses of the taxpayer. Upon receipt of the report, the  
10 authority and the director shall review the findings of the  
11 independent certified public accountant's report, and shall make a  
12 determination as to the qualified film production expenses or the  
13 qualified digital media content production expenses of the taxpayer.  
14 The determination shall be provided in writing to the taxpayer, and  
15 a copy of the written determination shall be included in the filing of  
16 a return that includes a claim for a tax credit allowed pursuant to  
17 this section.

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

38 h. As used in this section:

39 "Authority" means the New Jersey Economic Development  
40 Authority.

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

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

46 "Digital media content" means any data or information that is  
47 produced in digital form, including data or information created in  
48 analog form but reformatted in digital form, text, graphics,

1 photographs, animation, sound, and video content. "Digital media  
2 content" <sup>1</sup>~~【does】~~ shall<sup>1</sup> not mean content offerings generated by the  
3 end user (including postings on electronic bulletin boards and chat  
4 rooms); content offerings comprised primarily of local news,  
5 events, weather, or local market reports; public service content;  
6 electronic commerce platforms (such as retail and wholesale  
7 websites); websites or content offerings that contain obscene  
8 material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3;  
9 websites or content that are produced or maintained primarily for  
10 private, industrial, corporate, or institutional purposes; or digital  
11 media content acquired or licensed by the taxpayer for distribution  
12 or incorporation into the taxpayer's digital media content.

13 "Film" means a feature film, a television series, or a television  
14 show of 22 minutes or more in length, intended for a national  
15 audience, or a television series or a television show of 22 minutes  
16 or more in length intended for a national or regional audience,  
17 including, but not limited to, a game show, award show, or other  
18 gala event filmed and produced at a nonprofit arts and cultural  
19 venue receiving State funding. "Film" shall not include a  
20 production featuring news, current events, weather, and market  
21 reports or public programming, talk show, or sports event, a  
22 production that solicits funds, a production containing obscene  
23 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a  
24 production primarily for private, industrial, corporate, or  
25 institutional purposes, or a reality show, except if the production  
26 company of the reality show owns, leases, or otherwise occupies a  
27 production facility of no less than 20,000 square feet of real  
28 property for a minimum term of <sup>1</sup>~~【twenty-four (24)】~~ 24<sup>1</sup> months,  
29 and invests no less than \$3,000,000 in such a facility within a  
30 designated enterprise zone established pursuant to the "New Jersey  
31 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.),  
32 or a UEZ-impacted business district established pursuant to section  
33 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an  
34 award show or other gala event that is not filmed and produced at a  
35 nonprofit arts and cultural venue receiving State funding.

36 "Full-time or full-time equivalent employee" means an individual  
37 employed by the taxpayer for consideration for at least 35 hours a  
38 week, or who renders any other standard of service generally  
39 accepted by custom or practice as full-time or full-time equivalent  
40 employment, whose wages are subject to withholding as provided in  
41 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or  
42 who is a partner of a taxpayer, who works for the partnership for at  
43 least 35 hours a week, or who renders any other standard of service  
44 generally accepted by custom or practice as full-time or full-time  
45 equivalent employment, and whose distributive share of income,  
46 gain, loss, or deduction, or whose guaranteed payments, or any  
47 combination thereof, is subject to the payment of estimated taxes, as  
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1



1 et seq. "Full-time or full-time equivalent employee" shall not  
2 include an individual who works as an independent contractor or on  
3 a consulting basis for the taxpayer.

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

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

14 "Loan out company" means a personal service corporation or  
15 other entity that is contracted with by the taxpayer to provide  
16 specified individual personnel, such as artists, crew, actors,  
17 producers, or directors for the performance of services used directly  
18 in a production. "Loan out company" <sup>1</sup>**【does】 shall** not include  
19 entities contracted with by the taxpayer to provide goods or  
20 ancillary contractor services such as catering, construction, trailers,  
21 equipment, or transportation.

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

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

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

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

1 media content production expenses" shall not include expenses  
2 incurred in marketing, promotion, or advertising digital media or  
3 other costs not directly related to the production of digital media  
4 content. Costs related to the acquisition or licensing of digital  
5 media content by the taxpayer for distribution or incorporation into  
6 the taxpayer's digital media content shall not be 'deemed'  
7 "qualified digital media content production expenses."

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

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

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

39 i. A business that is not a "taxpayer" as defined and used in the  
40 "Corporation Business Tax Act (1945)" P.L.1945, c.162 (C.54:10A-  
41 1 et seq.) and therefore is not directly allowed a credit under this  
42 section, but is a business entity that is classified as a partnership for  
43 federal income tax purposes and is ultimately owned by a business  
44 entity that is a "corporation" as defined in subsection (c) of section  
45 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company  
46 formed under the "Revised Uniform Limited Liability Company  
47 Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business  
48 in this State as a foreign limited liability company, with one

1 member, and is wholly owned by the business entity that is a  
2 "corporation" as defined in subsection (c) of section 4 of P.L.1945,  
3 c.162 (C.54:10A-4), but otherwise meets all other requirements of  
4 this section, shall be considered an eligible applicant and "taxpayer"  
5 as that term is used in this section.

6 (cf: P.L.2018, c.56, s.1)

7

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

10 2. a. (1) A taxpayer, upon approval of an application to the  
11 authority and the director, shall be allowed a credit against the tax  
12 otherwise due for the taxable year under the "New Jersey Gross  
13 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30  
14 percent of the qualified film production expenses of the taxpayer  
15 during a taxable year commencing on or after July 1, 2018 but  
16 before July 1, ~~2023~~ 2028, provided that:

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

23 (b) principal photography of the film commences within the  
24 earlier of 180 days from the date of the original application for the  
25 tax credit, or 150 days from the date of approval of the application  
26 for the tax credit;

27 (c) the film includes, when determined to be appropriate by the  
28 commission, at no cost to the State, marketing materials promoting  
29 this State as a film and entertainment production destination, which  
30 materials shall include placement of a "Filmed in New Jersey" or  
31 "Produced in New Jersey" statement, or an appropriate logo  
32 approved by the ~~Commission~~ commission<sup>1</sup>, in the end credits of  
33 the film;

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

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

40 (2) Notwithstanding the provisions of paragraph (1) of ~~this~~<sup>1</sup>  
41 subsection a. ~~of this section~~<sup>1</sup> to the contrary, the tax credit allowed  
42 pursuant to this subsection against the tax otherwise due for the  
43 taxable year under the "New Jersey Gross Income Tax Act,"  
44 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of  
45 the qualified film production expenses of the taxpayer during a  
46 taxable year that are incurred for services performed and tangible  
47 personal property purchased through vendors whose primary place

1 of business is located in Atlantic, Burlington, Camden, Cape May,  
2 Cumberland, Gloucester, Mercer, or Salem County.

3 b. (1) A taxpayer, upon approval of an application to the  
4 authority and the director, shall be allowed a credit against the tax  
5 otherwise due for the taxable year under the "New Jersey Gross  
6 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20  
7 percent of the qualified digital media content production expenses  
8 of the taxpayer during a taxable year commencing on or after July  
9 1, 2018 but before July 1, **[2023]** 2028, provided that:

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

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

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

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

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

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

1 otherwise allowable under this section which cannot be applied for  
2 the taxable year due to the limitations of this subsection or under  
3 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if  
4 necessary, to the seven taxable years following the taxable year for  
5 which the tax credit was allowed.

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

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

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

33 e. A taxpayer, with an application for a tax credit provided for  
34 in subsection a. or subsection b. of this section, may apply to the  
35 authority and the director for a tax credit transfer certificate in lieu  
36 of the taxpayer being allowed any amount of the tax credit against  
37 the tax liability of the taxpayer. The tax credit transfer certificate,  
38 upon receipt thereof by the taxpayer from the authority and the  
39 director, may be sold or assigned, in full or in part, to any other  
40 taxpayer that may have a tax liability under the "New Jersey Gross  
41 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation  
42 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in  
43 exchange for private financial assistance to be provided by the  
44 purchaser or assignee to the taxpayer that has applied for and been  
45 granted the tax credit. The tax credit transfer certificate provided to  
46 the taxpayer shall include a statement waiving the taxpayer's right  
47 to claim that amount of the tax credit against the tax imposed  
48 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to

1 sell or assign. The sale or assignment of any amount of a tax credit  
2 transfer certificate allowed under this section shall not be  
3 exchanged for consideration received by the taxpayer of less than  
4 75 percent of the transferred tax credit amount. Any amount of a  
5 tax credit transfer certificate used by a purchaser or assignee against  
6 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the  
7 same limitations and conditions that apply to the use of a tax credit  
8 pursuant to subsections c. and d. of this section. Any amount of a  
9 tax credit transfer certificate obtained by a purchaser or assignee  
10 under <sup>1</sup>~~["this"]~~ <sup>1</sup>subsection e. <sup>1</sup>~~of this section~~ <sup>1</sup>may be applied against  
11 the purchaser's or assignee's tax liability under P.L.1945, c.162  
12 (C.54:10A-1 et seq.) and shall be subject to the same limitations  
13 and conditions that apply to the use of a credit pursuant to  
14 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

15 f. (1) The value of tax credits, including tax credits allowed  
16 through the granting of tax credit transfer certificates, approved by  
17 the director and the authority pursuant to subsection a. of this  
18 section and pursuant to subsection a. of section 1 of P.L.2018, c.56  
19 (C.54:10A-5.39b) shall not exceed a cumulative total of  
20 <sup>1</sup>~~["\$75,000,000"]~~ <sup>1</sup>\$100,000,000 in fiscal year 2019 and in each  
21 fiscal year thereafter prior to fiscal year <sup>1</sup>~~["2024"]~~ <sup>1</sup>2029 to apply  
22 against the tax imposed pursuant to the "New Jersey Gross Income  
23 Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of  
24 P.L.1945, c.162 (C.54:10A-5). If the cumulative total amount of tax  
25 credits, and tax credit transfer certificates, allowed to taxpayers for  
26 taxable years or privilege periods commencing during a single fiscal  
27 year under subsection a. of this section and subsection a. of section  
28 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax  
29 credits available in that fiscal year, then taxpayers who have first  
30 applied for and have not been allowed a tax credit or tax credit  
31 transfer certificate amount for that reason shall be allowed, in the  
32 order in which they have submitted an application, the amount of  
33 tax credit or tax credit transfer certificate on the first day of the next  
34 succeeding fiscal year in which tax credits and tax credit transfer  
35 certificates under subsection a. of this section and subsection a. of  
36 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of  
37 the amount of credits available.

38 <sup>1</sup>Notwithstanding any provision of paragraph (1) of this  
39 subsection to the contrary, for any fiscal year in which the amount  
40 of tax credits approved pursuant to this paragraph is less than the  
41 cumulative total amount of tax credits permitted to be approved in  
42 that fiscal year, the authority shall certify the amount of the  
43 remaining tax credits available for approval in that fiscal year, and  
44 shall increase the cumulative total amount of tax credits permitted  
45 to be approved in the subsequent fiscal year by the certified amount  
46 remaining from the prior fiscal year. The authority shall also  
47 certify, for each fiscal year, the amount of tax credits that were  
48 previously approved, but that the taxpayer is not able to redeem or

1 transfer to another taxpayer under this section, and shall increase  
2 the cumulative total amount of tax credits permitted to be approved  
3 in the subsequent fiscal year by the amount of tax credits previously  
4 approved, but not subject to redemption or transfer. The combined  
5 increase to the cumulative total permitted to be approved in a  
6 subsequent fiscal year pursuant to this paragraph shall not exceed  
7 \$50,000,000.<sup>1</sup>

8 (2) The value of tax credits, including tax credits allowed  
9 through the granting of tax credit transfer certificates, approved by  
10 the authority and the director pursuant to subsection b. of this  
11 section and pursuant to subsection b. of section 1 of P.L.2018, c.56  
12 (C.54:10A-5.39b) shall not exceed a cumulative total of  
13 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter  
14 prior to fiscal year <sup>1</sup>~~2024~~ <sup>1</sup>2029<sup>1</sup> to apply against the tax imposed  
15 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
16 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162  
17 (C.54:10A-5). If the total amount of tax credits and tax credit  
18 transfer certificates allowed to taxpayers for taxable years or  
19 privilege periods commencing during a single fiscal year under  
20 subsection b. of this section and subsection b. of section <sup>1</sup>~~2~~  
21 ~~P.L.2018, c.56 (C.54:4-12b)]~~ <sup>1</sup>1 of P.L.2018, c.56, s.1 (C.54:10A-  
22 ~~5.39b)~~<sup>1</sup> exceeds the amount of tax credits available in that year,  
23 then taxpayers who have first applied for and have not been allowed  
24 a tax credit or tax credit transfer certificate amount for that reason  
25 shall be allowed, in the order in which they have submitted an  
26 application, the amount of tax credit or tax credit transfer certificate  
27 on the first day of the next succeeding fiscal year in which tax  
28 credits and tax credit transfer certificates under subsection b. of this  
29 section and subsection b. of section <sup>1</sup>~~2~~ of P.L.2018, c.56 (C.54:4-  
30 ~~12b)]~~ <sup>1</sup>1 of P.L.2018, c.56, s.1 (C.54:10A-5.39b)<sup>1</sup> are not in excess  
31 of the amount of credits available.

32 g. A taxpayer shall submit to the authority and the director a  
33 report prepared by an independent certified public accountant  
34 licensed in this State to verify the taxpayer's tax credit claim  
35 following the completion of the production. The report shall be  
36 prepared by the independent certified public accountant pursuant to  
37 agreed upon procedures prescribed by the authority and the director  
38 <sup>1</sup>~~;~~ <sup>1</sup> and shall include such information and documentation as  
39 shall be determined to be necessary by the authority and the director  
40 to substantiate the qualified film production expenses or the  
41 qualified digital media content production expenses of the taxpayer.  
42 Upon receipt of the report, the authority and the director shall  
43 review the findings of the independent certified public accountant's  
44 report, and shall make a determination as to the qualified film  
45 production expenses or the qualified digital media content  
46 production expenses of the taxpayer. The determination shall be  
47 provided in writing to the taxpayer, and a copy of the written

1 determination shall be included in the filing of a return that includes  
2 a claim for a tax credit allowed pursuant to this section.

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

23 i. As used in this section:

24 "Authority" means the New Jersey Economic Development  
25 Authority.

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

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

31 "Digital media content" means any data or information that is  
32 produced in digital form, including data or information created in  
33 analog form but reformatted in digital form, text, graphics,  
34 photographs, animation, sound, and video content. "Digital media  
35 content" <sup>1</sup>~~shall~~ <sup>1</sup>not mean content offerings generated by the  
36 end user (including postings on electronic bulletin boards and chat  
37 rooms); content offerings comprised primarily of local news,  
38 events, weather or local market reports; public service content;  
39 electronic commerce platforms (such as retail and wholesale  
40 websites); websites or content offerings that contain obscene  
41 material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3;  
42 websites or content that are produced or maintained primarily for  
43 private, industrial, corporate, or institutional purposes; or digital  
44 media content acquired or licensed by the taxpayer for distribution  
45 or incorporation into the taxpayer's digital media content.

46 "Film" means a feature film, a television series, or a television  
47 show of 22 minutes or more in length, intended for a national  
48 audience, or a television series or a television show of 22 minutes



1 or more in length intended for a national or regional audience,  
2 including, but not limited to, a game show, award show, or other  
3 gala event filmed and produced at a nonprofit arts and cultural  
4 venue receiving State funding. "Film" shall not include a  
5 production featuring news, current events, weather, and market  
6 reports or public programming, talk show, sports event, or reality  
7 show, a production that solicits funds, a production containing  
8 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-  
9 3, or a production primarily for private, industrial, corporate, or  
10 institutional purposes. "Film" shall not include an award show or  
11 other gala event that is not filmed and produced at a nonprofit arts  
12 and cultural venue receiving State funding.

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

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

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

39 "Loan out company" means a personal service corporation or  
40 other entity that is contracted with by the taxpayer to provide  
41 specified individual personnel, such as artists, crew, actors,  
42 producers, or directors for the performance of services used directly  
43 in a production. "Loan out company" **1**shall<sup>1</sup> not include  
44 entities contracted with by the taxpayer to provide goods or  
45 ancillary contractor services such as catering, construction, trailers,  
46 equipment, or transportation.

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

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

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

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

33 "Qualified film production expenses" means an expense incurred  
34 in New Jersey for the production of a film including pre-production  
35 costs and post-production costs incurred in New Jersey. "Qualified  
36 film production expenses" shall include but **'[shall]'** not be limited  
37 to: wages and salaries of individuals employed in the production of  
38 a film on which the tax imposed by the "New Jersey Gross Income  
39 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the  
40 costs for tangible personal property used, and services performed,  
41 directly and exclusively in the production of a film, such as  
42 expenditures for film production facilities, props, makeup,  
43 wardrobe, film processing, camera, sound recording, set  
44 construction, lighting, shooting, editing, and meals. Payment made  
45 to a loan out company or to an independent contractor shall not be  
46 **'deemed'** a "qualified film production expense" unless the payment  
47 is made in connection with a trade, profession, or occupation

1 carried on in this State or for the rendition of personal services  
2 performed in this State and the taxpayer has made the withholding  
3 required by subsection h. of this section. "Qualified film production  
4 expenses" shall not include: expenses incurred in marketing or  
5 advertising a film; and payment in excess of \$500,000 to a highly  
6 compensated individual for costs for a story, script, or scenario used  
7 in the production of a film and wages or salaries or other  
8 compensation for writers, directors, including music directors,  
9 producers, and performers, other than background actors with no  
10 scripted lines.

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

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

17 (cf: P.L.2018, c.56, s.2)

18

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

20 4. **【a.】** A taxpayer, upon approval of an application to the  
21 authority and the director, shall be allowed a credit against the tax  
22 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
23 an amount equal to 2 percent of the qualified film or digital media  
24 content production expenses of the taxpayer during a privilege  
25 period commencing on or after July 1, 2018 but before July 1,  
26 **【2023】 2028**, provided that:

27 **【(a)】 a.** the application is accompanied by a diversity plan  
28 outlining specific goals, which may include advertising and  
29 recruitment actions, for hiring minority persons and women;

30 **【(b)】 b.** the director and the authority have approved the plan  
31 as meeting the requirements established by the director and the  
32 authority; and

33 **【(c)】 c.** the director and the authority have verified that the  
34 applicant has met or made good-faith efforts in achieving those  
35 goals.

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

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

44

45 <sup>3</sup>**【24.** (New Section) Within 2 years of the effective date of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 and every second year thereafter that tax credits are granted

A5580 [3R] JOHNSON, MORIARTY

20

1 pursuant to P.L.2018, c.56 (C.54:10A-5.39b et al.), the authority  
2 shall assess and report to the Governor, and pursuant to section 2 of  
3 P.L.1991, c.164 (C.52:14-19.1), the Legislature, the benefits the  
4 film and digital media tax credits create for the State relative to the  
5 costs of the tax credits to the State.<sup>2</sup><sup>3</sup>

6

7 <sup>2</sup>[4.] <sup>3</sup>[5.<sup>2</sup>]4.<sup>3</sup> This act shall take effect immediately.