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HOUSE BILL 374

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR  
INVESTMENT IN A NEW MEXICO-BASED MEDIA COMPANY.

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

Section 1. A new section of the Income Tax Act is enacted  
to read:

"~~[NEW MATERIAL]~~ CREDIT--INVESTMENT IN NEW MEXICO-BASED  
MEDIA COMPANY.--

A. A taxpayer who files a New Mexico income tax  
return, is not a dependent of another taxpayer and makes a  
qualified investment in a New Mexico-based media company may  
claim a credit in an amount not to exceed ten percent of not  
more than two hundred fifty thousand dollars (\$250,000) of the  
qualified investment. The credit may be claimed for the  
taxable year in which the investment is made. The tax credit

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1 provided in this section shall be known as the "New Mexico  
2 media investment tax credit".

3 B. A taxpayer may claim the New Mexico media  
4 investment tax credit for up to two qualified investments in a  
5 taxable year, provided that each investment is in a different  
6 New Mexico-based media company. A taxpayer may claim the  
7 credit for qualified investments in the same media company for  
8 not more than three taxable years.

9 C. A taxpayer may not claim the New Mexico media  
10 investment tax credit for an amount that has been included in a  
11 claim for a deduction or credit pursuant to the Internal  
12 Revenue Code or another provision of the Income Tax Act.

13 D. To qualify as a New Mexico-based media company  
14 for the purposes of this section, a company must:

15 (1) maintain its principal place of business  
16 in New Mexico; and

17 (2) be engaged in the manufacturing or  
18 development of feature films, television, regional and national  
19 commercials, documentaries, video games or post production.

20 E. A taxpayer shall apply for certification of  
21 eligibility for the New Mexico media investment tax credit from  
22 the economic development department. If the economic  
23 development department determines that the taxpayer has made a  
24 qualified investment in a New Mexico-based media company that  
25 complies with the requirements of this section, it shall issue

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1 a certificate of eligibility to the taxpayer. The certificate  
2 shall be dated and shall include a calculation of the amount of  
3 the New Mexico media investment tax credit for which the  
4 taxpayer is eligible. The economic development department may  
5 issue rules governing the procedure for administering the  
6 provisions of this subsection.

7 F. To claim the New Mexico media investment tax  
8 credit, the taxpayer must provide to the taxation and revenue  
9 department a certificate of eligibility issued by the economic  
10 development department pursuant to Subsection E of this section  
11 and any other information the taxation and revenue department  
12 may require to determine the amount of the tax credit due the  
13 taxpayer. If the requirements of this section have been met,  
14 the taxation and revenue department shall approve the claim for  
15 the credit.

16 G. A taxpayer who otherwise qualifies and claims  
17 the New Mexico media investment tax credit for a qualified  
18 investment made by a partnership or other business association  
19 of which the taxpayer is a member may claim the credit only in  
20 proportion to the taxpayer's interest in the partnership or  
21 association. The total credit claimed in the aggregate by all  
22 members of the partnership or business association in a taxable  
23 year shall not exceed twenty-five thousand dollars (\$25,000).

24 H. A husband and wife who file separate returns for  
25 a taxable year in which they could have filed a joint return

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1 may each claim only one-half of the credit that would have been  
2 allowed on a joint return.

3 I. The New Mexico media investment tax credit may  
4 only be deducted from the taxpayer's income tax liability. Any  
5 portion of the credit that remains unused at the end of the  
6 taxpayer's taxable year may be carried forward for three  
7 consecutive years.

8 J. As used in this section:

9 (1) "equity" means common or preferred stock  
10 of a corporation, a partnership interest in a limited  
11 partnership or a membership interest in a limited liability  
12 company, including debt subject to an option in favor of the  
13 creditor to convert the debt into common or preferred stock, a  
14 partnership interest or a membership interest;

15 (2) "film" means a single medium or multimedia  
16 program, excluding advertising messages other than national or  
17 regional advertising messages intended for exhibition, that:

18 (a) is fixed on film, a digital medium,  
19 videotape, computer disc, laser disc or other similar delivery  
20 medium;

21 (b) can be viewed or reproduced;

22 (c) is not intended to and does not  
23 violate a provision of Chapter 30, Article 37 NMSA 1978; and

24 (d) is intended for reasonable  
25 commercial exploitation for the delivery medium used;

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(3) "post production" means editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; and

(4) "qualified investment" means a cash investment in a New Mexico-based media company for equity, but does not include an investment by a taxpayer if the taxpayer, a member of the taxpayer's immediate family or an entity affiliated with the taxpayer receives compensation from the media company."

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2008.