

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

HB 607/a

March 14, 2011

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

**HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 607 & 622**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, strike "DISTRIBUTING", strike line 13 and on line 14, strike "YEARS;".

2. On pages 1 through 4, strike Section 1 in its entirety.

3. Renumber succeeding sections accordingly.

4. On page 5, line 12, strike "and".

5. On page 5, between lines 15 and 16, insert the following new subparagraph:

"(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and".

6. On page 5, line 23, strike "and".

7. On page 6, line 1, strike the period and insert in lieu thereof:

"; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties.

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The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction."

8. On page 6, line 2, strike "L" and insert in lieu thereof "N".

9. On page 6, line 14, before "claim", insert "credit".

10. On page 6, line 15, strike "refunds are made" and insert in lieu thereof "a credit claim is authorized for payment".

11. On page 6, line 16, strike "credits that may be approved" and insert in lieu thereof "credit claims that may be authorized for payment".

12. On page 6, line 17, after "is", strike the remainder of the line and insert in lieu thereof "fifty million dollars (\$50,000,000) with".

13. On page 7, strike lines 2 through 23 and insert in lieu thereof:

"E. Credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to the provisions of the Tax Administration Act.

F. A credit claim shall only be considered received by the department if the credit claim is made on a complete tax return filed timely after the close of the taxable year. All direct production expenditures and postproduction expenditures incurred during the taxable year by a film production company shall be submitted as part of the same tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

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G. For purposes of determining the payment of credit claims pursuant to this section, all credit claims made by affiliated persons shall be considered to be one claim."

14. Reletter the succeeding subsections accordingly.

15. On page 10, lines 18 and 19, strike "pursuant to Subsection E of this section".

16. On page 11, between lines 8 and 9, insert the following new subsection:

"A. "affiliated person" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;".

17. Reletter the succeeding subsections accordingly.

18. On page 11, strike lines 19 through 25 and insert in lieu thereof:

"(b) payment to: 1) a personal services business for the services of a performing artist if the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) a film production company that deducts and remits, or causes to be deducted and remitted".

19. On page 14, strike lines 9 through 13 and insert in lieu thereof:

"H. "New Mexico resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any

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individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year and who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Film Production Tax Credit Act for periods after that change of abode;".

20. On page 15, line 9, strike "pays" and insert in lieu thereof "is subject to".

21. On page 22, between lines 5 and 6, insert the following section:

"SECTION 6. TEMPORARY PROVISION.--For taxable year 2011, a personal services business that is subject to Sections 4 and 5 of this act is deemed to have complied with the provisions of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act if the taxpayer has made the first two required annual payments of withheld taxes due for taxable year 2011 no later than October 15, 2011."

22. Renumber the succeeding sections accordingly.

23. On page 22, line 10, strike "5 and 6" and insert in lieu thereof "4 and 5".

24. On page 22, line 12, strike "July" and insert in lieu thereof "January".

25. Adjust cross-references to correspond with these amendments, as needed.

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Respectfully submitted,

John Arthur Smith, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 1 Against
Yes: 9
No: Leavell
Excused: Beffort
Absent: None

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