

**FIFTY-FOURTH LEGISLATURE
FIRST SESSION, 2019**

March 6, 2019

Mr. Speaker:

Your **TAXATION & REVENUE COMMITTEE**, to whom has been referred

HOUSE BILL 654, as amended

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

1. On page 1, lines 12 and 13, strike "ELIMINATING THE AGGREGATE CAP" and insert in lieu thereof "INCREASING THE AGGREGATE CAP OVER FIVE YEARS".

2. On page 1, line 19, after the semicolon, insert "AMENDING THE PURPOSES AND GOALS OF THE ACT;".

3. On page 26, between lines 24 and 25, insert the following new section:

"SECTION 3. Section 7-2F-3 NMSA 1978 (being Laws 2011, Chapter 165, Section 4, as amended) is amended to read:

"7-2F-3. PURPOSES--GOALS.--The purposes and goals of the Film Production Tax Credit Act are to:

A. establish the film industry as a permanent component of the economic base of New Mexico;

B. develop a pool of trained professionals [~~and~~] who are New Mexico residents to provide labor for the film industry in the state and increase the number of these professionals who are given the opportunity to participate in all aspects of the industry;

C. develop relationships between the film industry and New Mexico businesses [~~in New Mexico to~~] that supply and support the film industry in the state;

~~[C. increase employment of New Mexico residents;]~~

D. improve the economic success of existing businesses in New Mexico; and

E. develop the infrastructure in the state necessary

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[~~for~~] to maintain a thriving film industry."".

4. Renumber the succeeding sections accordingly.

5. On page 26, between lines 24 and 25, insert the following new section:

"SECTION 3. Section 7-2F-12 NMSA 1978 (being Laws 2015, Chapter 143, Section 11) is amended to read:

"7-2F-12. CREDIT CLAIMS--AGGREGATE AMOUNT OF CLAIMS ALLOWED.--

A. A claim for a film [~~and television~~] production tax credit shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by a pass-through entity. The date a credit claim is received by the department shall determine the order that a credit claim is authorized for payment by the department.

B. The aggregate amount of claims for a film production tax credit [~~provided by the Film Production Tax Credit Act~~] that may be authorized with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products for payment [~~in any fiscal year~~] is:

(1) for fiscal year 2020, one hundred fifty million dollars [~~(\$50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products~~] (\$150,000,000);

(2) for fiscal year 2021, one hundred sixty million dollars (\$160,000,000);

(3) for fiscal year 2022, one hundred seventy million dollars (\$170,000,000);

(4) for fiscal year 2023, one hundred eighty-five million dollars (\$185,000,000); and

(5) for fiscal year 2024 and subsequent fiscal years, two hundred million dollars (\$200,000,000).

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C. A film production company that submits a claim for a film [~~and television~~] production tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed [~~the~~] a limitation in [~~this~~] Subsection B of this section shall be placed for the subsequent fiscal year at the front of a queue of credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

~~[B.]~~ D. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars (\$2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars (\$5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

~~[C.]~~ E. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection [~~B~~] D of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Subsections [~~A and~~] B and D of this section;

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provided that the total credit claims authorized for payment shall not exceed the aggregate amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

~~[D.]~~ F. Any amount of a credit claim that is carried forward pursuant to Subsection ~~[B]~~ D of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsection ~~[A]~~ B of this section in the fiscal year in which that amount is paid.

~~[E.]~~ G. A credit claim shall only be considered received by the department if the credit claim is made on a complete return filed 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 income tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

~~[F.]~~ H. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons."".

6. Renumber succeeding sections accordingly.

7. On page 27, line 1, strike "7-2F-12" and insert in lieu thereof "7-2F-11" and on line 2, strike "11" and insert in lieu thereof "10".

Respectfully submitted,

Jim R. Trujillo, Chair

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

Date _____

The roll call vote was 7 For 4 Against
Yes: 7
No: Herrera, Lewis, Scott, Strickler
Excused: None
Absent: Harper, Montoya

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