

SENATE BILL 12

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Nancy Rodriguez

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO FILM; INCREASING THE ANNUAL AGGREGATE CAP AND  
ADDITIONAL AMOUNTS OF TAX CREDITS PURSUANT TO THE FILM  
PRODUCTION TAX CREDIT ACT; AMENDING CERTAIN REQUIREMENTS TO BE  
ELIGIBLE FOR THE CREDITS; AMENDING DEFINITIONS PURSUANT TO THAT  
ACT; PROVIDING THAT VENDORS UNDER THAT ACT SHALL BE SUBJECT TO  
AUDIT; PROVIDING FOR THE MANAGEMENT AND USE OF ASSETS FROM  
FILMS; REQUIRING FILM PRODUCTION COMPANIES TO REPORT ON GOALS  
REGARDING A DIVERSE WORKFORCE AND VENDORS AND MAINTAINING

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SUSTAINABILITY; INCREASING DISTRIBUTIONS OF DEVELOPMENT TRAINING FUNDS TO PROVIDE TRAINING FOR THAT INDUSTRY; CREATING THE FILM AND MEDIA FUND; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended) is amended to read:

"7-2F-2. DEFINITIONS.--As used in the Film Production Tax Credit Act:

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;

B. "background artist" means a person who is not a performing artist but is a person of atmospheric business whose work includes atmospheric noise, normal actions, gestures and facial expressions of that person's assignment; or a person of atmospheric business whose work includes special abilities that are not stunts; or a substitute for another actor, whether photographed as a double or acting as a stand-in;

C. "below-the-line crew" means a person in a position that is off-camera and who provides technical services

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during the physical production of a film. "Below-the-line crew" does not include a person who is a writer, director, producer or background artist or performing artist for the film;

D. "commercial audiovisual product" means a film or a video game intended for commercial exploitation;

E. "direct production expenditure" means a transaction that is subject to taxation in New Mexico and is certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978:

(1) including an expenditure for:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for standard industry craft inventory when provided by a below-the-line crew that is a New Mexico resident in addition to its below-the-line crew services;

(c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

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(d) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) the first one hundred fifty dollars (\$150) of the daily expense of leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; 7) food; 8) the first three hundred dollars (\$300) of lodging per individual, per day; 9) commercial airfare if

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purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 10) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 11) subcontracted goods and services from businesses; provided that the ordinary course of business of the vendor procuring the goods and services from the subcontractor directly relates to standard film industry goods and services; and 12) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than one hundred dollars (\$100);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when the subcontractors providing those goods or services to the vendor are not subject to state taxation, such as equipment and locations provided by the

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military, government and organizations that demonstrate to the taxation and revenue department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

(e) subcontracted services provided by a vendor when the subcontracted services are provided by a person who is below-the-line crew and is not a New Mexico resident;

(f) hidden or other indirect service fees, costs, commissions or other remuneration received by third parties and that are not directly paid by the film production company or expressly enumerated on a film production company's filing to claim a new film production tax credit;

(g) wages for a person who is not a New Mexico resident and who falsely claims to be a New Mexico resident. The wages of such person shall not be considered an eligible expense for two years from the date in which the person is determined by the taxation and revenue department as having made a false claim, regardless of whether the person becomes a New Mexico resident within that time frame; or

(h) which the film production company receives funding pursuant to Section 21-19-7.1 NMSA 1978;

F. "division" means the New Mexico film division of the economic development department;

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G. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the United States Internal Revenue Code of 1986, as amended;

H. "film" means a single medium or multimedia program, including television programs but excluding advertising messages other than national or regional advertising messages [~~intended for exhibition~~] airing or streaming in more than one state, that:

(1) is fixed on film or a digital medium [~~videotape, computer disc, laser disc or other similar delivery medium~~];

(2) can be viewed or reproduced;

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

(4) is intended for reasonable commercial exploitation for the delivery medium used;

I. "film production company" means a person or business that produces one or more films or commercial audiovisual products or any part of a film or commercial audiovisual product;

J. "fiscal year" means the state fiscal year beginning on July 1;

K. "New Mexico film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has

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purchased or executed a ten-year contract to lease a qualified production facility;

[K-] L. "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 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;

[L-] M. "performing artist" means an actor, on-camera stuntperson, puppeteer, pilot who is a stuntperson or actor, specialty foreground performer or narrator; and who speaks a line of dialogue, is identified with the product or reacts to narration as assigned. "Performing artist" does not include a background artist;

[M-] N. "personal services business" means a business organization, with or without physical presence, that receives payments pursuant to the Film Production Tax Credit Act for the services of a performing artist;

[N-] O. "physical presence" means a physical



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address in New Mexico from which a vendor conducts business, stores inventory or otherwise creates, assembles or offers for sale the product purchased or leased by a film production company and the vendor or an employee of the vendor is a resident;

[~~Q~~] P. "postproduction expenditure" means an expenditure, certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978, for 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; but not including an expenditure for advertising, marketing, distribution or expense payments;

[~~P~~] Q. "principal photography" means the production of a film during which the main visual elements are created;

[~~Q~~] R. "qualified production facility" means:

(1) for film production companies that commence principal photography for a film or commercial audiovisual product prior to January 1, 2024, a building, or complex of buildings, building improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that contain at least one:

[~~(1)~~] (a) sound stage with contiguous

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floor space of at least seven thousand square feet and a ceiling height of no less than eighteen feet; or

[~~(2)~~] (b) standing set that includes at least one interior, and at least five exteriors, built or re-purposed for film production use on a continual basis and is located on at least fifty acres of contiguous space designated for film production use; and

(2) for film production companies that commence principal photography for a film or commercial audiovisual product on or after January 1, 2024, a building, or complex of buildings, building improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that has been designated by the division as a "qualified production facility" in accordance with rules promulgated by the economic development department that shall specify minimum requirements for the facility, including:

(a) for a sound stage: 1) minimum contiguous floor space; 2) minimum required height to the lowest part of the ceiling; and 3) any minimum requirements for soundproofing if the sound stage is located in an area with significant noise; and

(b) for a standing outdoor set: 1) minimum amount of acreage; and 2) minimum amount of interior and exterior sets; and

[R-] S. "vendor" means a person who sells or leases

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goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act or income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with the standard industry job position of director, writer or producer."

SECTION 2. Section 7-2F-4 NMSA 1978 (being Laws 2011, Chapter 165, Section 5, as amended) is amended to read:

"7-2F-4. REPORTING--ACCOUNTABILITY.--

A. The economic development department shall:

(1) collect data to be used in an econometric tool that objectively assesses the effectiveness of the credits provided by the Film Production Tax Credit Act;

(2) track the direct expenditures for the credits;

(3) with the support and assistance of the legislative finance committee staff and the taxation and revenue department, review and assess the analysis developed in Paragraph (1) of this subsection and create a report for presentation to the revenue stabilization and tax policy committee and the legislative finance committee that provides

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an objective assessment of the effectiveness of the credits;  
and

(4) report annually to the revenue stabilization and tax policy committee and the legislative finance committee on aggregate approved tax credits made pursuant to the Film Production Tax Credit Act and the past performance of and current outlook for the Film Production Tax Credit Act, including:

(a) the aggregate amount of credits paid subject to the aggregate amount allowed pursuant to Subsection B of Section 7-2F-12 NMSA 1978 in the prior fiscal year and the current amount of claims in the queue pursuant to Subsection C of Section 7-2F-12 NMSA 1978;

(b) the aggregate amount of approved credits paid in the prior fiscal year for expenditures by certain film production companies that are not subject to the aggregate amount of claims allowed pursuant to Section 7-2F-12 NMSA 1978;

(c) the number of applicants receiving the additional credit for television pilots and series pursuant to Section 7-2F-7 NMSA 1978;

(d) the number of applicants receiving the additional amount for expenditures made in certain areas of the state pursuant to Section ~~[8 of this 2019 act]~~ 7-2F-14 NMSA 1978;

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(e) the aggregate amount of direct production expenditures and [~~post-production~~] postproduction expenditures in New Mexico during the prior fiscal year, shown by county;

(f) the total number and wages of New Mexico residents employed by film production companies in the prior fiscal year; and

(g) any other relevant information, as determined by the division.

B. The division shall develop a form on which the taxpayer claiming a credit pursuant to the Film Production Tax Credit Act shall submit a report to accompany the taxpayer's application for that credit.

C. With respect to the production on which the application for a credit is based, the film production company shall report to the division at a minimum the following information:

(1) the total aggregate wages of the members of the New Mexico resident crew;

(2) the number of New Mexico residents employed;

(3) the total amount of gross receipts taxes paid;

(4) the total number of hours worked by New Mexico residents;

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(5) the total expenditures made in New Mexico that do not qualify for the credit;

(6) the aggregate wages paid to the members of the nonresident crew while working in New Mexico;

(7) the aggregate amount of direct production expenditures and postproduction expenditures in New Mexico in the prior fiscal year, shown by county; [~~and~~]

(8) the results and final outcome of the strategy, tactics and specific goals in hiring a diverse and inclusive workforce, sourcing from diverse vendors and maintaining sustainability, if required pursuant to Paragraph (3) of Subsection A of Section 7-2F-12 NMSA 1978; and

[~~(8)~~] (9) other information deemed necessary by the division and economic development department to determine the effectiveness of the credit.

D. For purposes of assessing the effectiveness of a credit, the inability of the economic development department to aggregate data due to sample size shall not relieve the department of the requirement to report all relevant data to the legislature. The division shall provide notice to a film production company applying for a credit that information provided to the division may be revealed by the department in reports to the legislature."

SECTION 3. Section 7-2F-11 NMSA 1978 (being Laws 2015, Chapter 143, Section 10) is amended to read:

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"7-2F-11. REQUIREMENTS TO CONTRACT WITH CERTAIN VENDORS--  
VENDORS SUBJECT TO AUDIT.--

A. A film production company shall make reasonable efforts, as determined by the STBTC→~~division~~←STBTC  
STBTC→taxation and revenue department←STBTC , to contract with a specialized vendor whose ordinary course of business directly relates to a standard industry craft inventory and that:

(1) provides services;

(2) provides inventory, for sale or lease,

that is maintained in New Mexico and represented by the specialized vendor; or

(3) subcontracts similar standard industry craft inventory from other businesses with or without physical presence.

~~[B. If a film production company does not contract with a specialized vendor, but contracts with a vendor that provides services, does not sell or lease standard industry craft inventory and outsources inventory from out-of-state businesses for a film production company, the film production company shall provide documentation of reasonable efforts made to find a specialized vendor.]~~

B. A vendor:

(1) shall be subject to random audits and site visits STBTC→by the taxation and revenue department←STBTC ;

(2) shall provide documentation STBTC→to the

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taxation and revenue department ← STBTC proving that the vendor meets the requirements to be a vendor pursuant to the Film Production Tax Credit Act; and

(3) may lose status under the Film Production Tax Credit Act for falsifications in the documentation provided pursuant to Paragraph (2) of this subsection."

SECTION 4. Section 7-2F-12 NMSA 1978 (being Laws 2019, Chapter 87, Section 6) is amended to read:

"7-2F-12. CREDIT CLAIMS--CERTIFICATION OF DIRECT PRODUCTION AND POSTPRODUCTION EXPENDITURES--AGGREGATE AMOUNT OF CLAIMS ALLOWED--EXCEPTION.--

A. The division shall certify a film production company's budget for direct production expenditures and postproduction expenditures during a preproduction meeting with the division; provided that:

(1) the division is prohibited from certifying a film production company's budget if the total expected claims in excess of the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section would exceed one hundred million dollars (\$100,000,000) in any fiscal year; [~~and provided further that~~]

(2) the limitation provided in Paragraph (1) of this subsection shall not apply to certification of a budget for a New Mexico film partner;

(3) the division and the film production



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company shall enter into an agreement requiring the film production company to make a financial or promotional contribution toward media-related education or workforce development efforts in New Mexico, as determined by the division, and if the contribution is not made, an application for a credit pursuant to the Film Production Tax Credit Act shall be not accepted; and

(4) for films with budgets greater than five million dollars (\$5,000,000), the film production company shall provide a strategy, tactics and specific goals in hiring a diverse and inclusive workforce, sourcing from diverse vendors and maintaining sustainability.

B. Except as provided in [~~Section 10 of this 2019 act~~] Laws 2019, Chapter 87, Section 10, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized [~~for payment~~] in any fiscal year [~~is one hundred ten million dollars (\$110,000,000)~~] with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products shall be in the following amounts; provided that direct production expenditures and postproduction expenditures made by a New Mexico film partner shall not be subject to the aggregate amount of claims provided by this subsection:

(1) prior to July 1, 2023, one hundred ten million dollars (\$110,000,000);

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(2) on or after July 1, 2023 but prior to July 1, 2033, the amount provided in Paragraph (1) of this subsection shall be increased by ten million dollars (\$10,000,000) in each of those fiscal years; and

(3) on or after July 1, 2033, two hundred ten million dollars (\$210,000,000).

C. If a film production company submits a claim for a credit pursuant to the Film Production Tax Credit Act and the aggregate amount of claims pursuant to Subsection B of this section has been met for the fiscal year, the claim shall be placed at the front of a queue for payment in a subsequent fiscal year. Claims shall be placed in order of the date on which the completed return in which the credit is claimed is filed. Claims authorized for payment shall be paid pursuant to the Tax Administration Act.

~~[D. If, in fiscal years 2020 through 2022, the aggregate amount of claims authorized for payment is less than one hundred ten million dollars (\$110,000,000), excluding claims by a New Mexico film partner, then the difference in that fiscal year or twenty million dollars (\$20,000,000), whichever is less, shall be added to the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section in the immediately following fiscal year.]~~

~~E.]~~ D. To provide guidance to film production

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companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and paid for the fiscal year. In addition, the division shall post monthly on the division's website the aggregate amount of claims certified pursuant to Subsection A of this section for the fiscal year or any subsequent fiscal year.

~~[F. As used in this section, "New Mexico film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has purchased or executed a ten-year contract to lease a qualified production facility.]"~~

SECTION 5. Section 7-2F-13 NMSA 1978 (being Laws 2019, Chapter 87, Section 7) is amended to read:

"7-2F-13. NEW FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "new film production tax credit".

B. A film production company that meets the requirements of the Film Production Tax Credit Act may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the

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production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the new film production tax credit; and

(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

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the new film production tax credit; and

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(e) 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.

C. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the amount of credit allowed pursuant to the Film Production Tax Credit Act is twenty percent.

D. A claim for new film production tax credits 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 an entity assigned payment of an authorized credit pursuant to Section 7-2F-5 NMSA 1978~~]. The date a complete credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department. The film production company may apply all or a portion of the new film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the credit claimed exceeds the film production company's tax

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liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

E. A credit claim shall only be considered received by the taxation and revenue 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. 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.

G. The new film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978 or alternative evidence pursuant to Section 7-9-43 NMSA 1978.

H. A production for which the new film production tax credit is claimed pursuant to Paragraph (1) of Subsection B

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of this section shall contain an acknowledgment to the state of New Mexico and any other jurisdiction in New Mexico in which a production was filmed or was permitted to film. Unless otherwise agreed upon in writing by the film production company and the division, the acknowledgment shall [be] share screen space in the end screen credits [~~that the production was filmed in New Mexico~~] and include a three-second static or animated state logo provided by the division for the state and any other jurisdictions and shall be included and embedded in the following:

(1) end screen credits [~~before the below-the-line crew crawl~~] for the life of the project of long-form narrative film productions; and

(2) body of the program for the life of television episodes, the placement of which shall be:

- (a) in the opening sequence;
- (b) as a bumper into or out of a commercial break; or
- (c) in a prominent position in each single project's end credits with no less than a half screen exposure, but not covering content.

I. To be eligible for the new film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act,

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including production data deemed necessary by the division and the economic development department to determine the effectiveness of the credit, and a projection of the new film production tax credit claim the film production company plans to submit. In addition, the film production company shall agree in writing:

(1) [~~to pay~~] that all obligations the film production company has incurred in New Mexico have been paid;

(2) to post a notice at completion of principal photography or the main visual elements of a production on the website of the division that:

(a) contains production company information, including the name of the production and contact information that includes a working phone number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the website until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the new film production tax credit until the division delivers written notification to the taxation and revenue department that the

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film production company has fulfilled all requirements for the credit; ~~and~~

(5) to submit a completed application for the new film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim; and

(6) within sixty days following approval by the taxation and revenue department of a new film production tax credit for a production with a New Mexico budget exceeding five million dollars (\$5,000,000), to submit a physical asset, such as a prop, costume piece, set, script element, work of art, original shooting script or other asset to the division.

J. For assets submitted pursuant to Paragraph (6) of Subsection I of this section, the division shall manage the assets and have rights to incorporate the assets, photos and videos of the assets and references to the assets in marketing across any communication outlet.

~~[J.]~~ K. The division, in consultation with the taxation and revenue department, shall determine the eligibility of the film production company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the

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film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns.

[K-] L. To receive a new film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the credit; provided that for the credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, the taxation and revenue department shall approve the credit and issue a document granting the credit.

[L-] M. That amount of a new film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not

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exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists [~~and resident principal performing artists~~] in a production. This limitation shall not apply to the services of background artists or resident performing artists cast in industry standard feature performing roles.

N. That amount of a new film production tax credit for total payments as applied to direct production expenditures made by a New Mexico film partner for the services of nonresident performing artists, directors, STBTC→producers,←STBTC screenwriters and editors shall not exceed fifteen million dollars (\$15,000,000) for services rendered."

STBTC→~~SECTION 6. Section 7-2F-14 NMSA 1978 (being Laws 2019, Chapter 87, Section 8) is amended to read:~~

~~"7-2F-14. ADDITIONAL AMOUNTS TO BE APPLIED IN CALCULATING CREDIT AMOUNTS--EXPENDITURES MADE IN CERTAIN AREAS OF THE STATE--TELEVISION PILOTS AND SERIES.--~~

~~A. Except as provided in Subsection B of this section, in addition to the percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section [7 of this 2019 act] 7-2F-13 NMSA 1978, an additional:~~

~~(1) five percent shall be applied for payments for direct production expenditures and postproduction~~

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~~expenditures:~~

~~{(1) for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties; and~~

~~(2) for either of the following}~~

~~(a) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; or~~

~~(b) on a production in a qualified production facility for the days the facility is used for production; and~~

~~(2) ten percent shall be applied for payments for direct production expenditures and postproduction expenditures for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties.~~

~~B. Except as provided in Subsection C of this section, in addition to the percentage of direct production expenditures and postproduction expenditures calculated~~

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~~pursuant to Section 7-2F-13 NMSA 1978 and the additional amounts provided in Subparagraph (b) of Paragraph (1) and Paragraph (2) of Subsection A of this section, an additional five percent shall be applied for payments for direct production expenditures and postproduction expenditures for a television series with a New Mexico budget of greater than fifteen million dollars (\$15,000,000) per episode, for a minimum of six episodes, or a film that is not a television program with a New Mexico budget of greater than one hundred million dollars (\$100,000,000); provided that the additional amount provided by this subsection shall only be allowed for New Mexico film partners; and provided further that the additional amount shall not be allowed in addition to the amount provided in Subparagraph (a) of Paragraph (1) of Subsection A of this section.~~

~~C. The maximum percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section 7-2F-13 NMSA 1978 and this section shall not exceed forty percent.~~

~~[B.] D. As used in this section, "certain counties" includes class A counties with a net taxable value of property for property taxation purposes of greater than [six billion dollars (\$6,000,000,000)] seven billion five hundred million dollars (\$7,500,000,000)."~~ ←STBTC

STBTC→SECTION 6. Section 7-2F-14 NMSA 1978 (being Laws 2019, Chapter 87, Section 8) is amended to read:

"7-2F-14. ADDITIONAL AMOUNTS TO BE APPLIED IN CALCULATING CREDIT AMOUNTS--EXPENDITURES MADE IN CERTAIN AREAS OF THE STATE--TELEVISION PILOTS AND SERIES.--

A. Except as provided in Subsection C of this section, in addition to the percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section ~~[7 of this 2019 act]~~ 7-2F-13 NMSA 1978, for a New Mexico film partner, an additional:

(1) five percent shall be applied for payments for direct production expenditures and postproduction expenditures:

~~[(1) for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties; and~~

~~(2) for either of the following]~~

(a) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; ~~[or]~~

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(b) on a production in a qualified production facility; and

(c) for a television series with a New Mexico budget of greater than fifteen million dollars (\$15,000,000) per episode, for a minimum of six episodes; and

(2) ten percent shall be applied for payments for direct production expenditures and postproduction expenditures for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties.

B. Except as provided in Subsection C of this section, in addition to the percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section 7-2F-13 NMSA 1978, for a film production company that is not a New Mexico film partner, an additional:

(1) five percent shall be applied for payments for direct production expenditures and postproduction expenditures:

(a) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty

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thousand dollars (\$50,000) or more; or

(b) on a production in a qualified production facility for the days the facility is used for production; and

(2) ten percent shall be applied for payments for direct production expenditures and postproduction expenditures for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties.

C. The maximum percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section 7-2F-13 NMSA 1978 and this section shall not exceed forty percent.

[B.] D. As used in this section, "certain counties" includes counties with a net taxable value of property for property taxation purposes of greater than ~~[\$6,000,000,000]~~ seven billion five hundred million dollars (\$7,500,000,000)." ←STBTC

SECTION 7. Section 7-2F-15 NMSA 1978 (being Laws 2019, Chapter 87, Section 9) is amended to read:

"7-2F-15. NONRESIDENT BELOW-THE-LINE CREW CREDIT.--[A.] A film production company may apply for, and the taxation and revenue department may allow, a tax credit, which may be referred to as the "nonresidential below-the-line crew credit",

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in an amount equal to fifteen percent of the payment of wages for below-the-line crew who are not New Mexico residents, that are directly attributable to the production in New Mexico of a film or commercial audiovisual product for which the film production company is claiming a new film production tax credit; provided that:

[←1] A. the service for which payment is made is rendered in New Mexico;

[←2] B. the payment of wages excludes payments:

(1) for below-the-line crew who are producers, directors, screenwriters, cast and production assistants; and

(2) made to a personal services business;

STBTC→~~C. the total amount of wages applied toward the additional credit allowed pursuant to this section shall not exceed the amount of wages of resident below-the-line wages claimed; and~~←STBTC

STBTC→C. the total amount of wages applied toward the additional credit allowed pursuant to this section may be up to one hundred percent of the amount of wages of resident below-the-line wages claimed; provided that the film production company provides a seventy-two-hour notice of the opportunity to be hired to resident below-the-line crew, which may be through a collective bargaining unit that represents resident below-the-line crew; and←STBTC

D. for a film production company that is not a New

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Mexico film partner:

(1) the total eligible wages for below-the-line crew who are not New Mexico residents are ~~[(a)]~~ not more than fifteen percent of the production's total New Mexico budget for below-the-line crew wages ~~[or~~

~~(b) as determined by the division, up to twenty percent of the production's total New Mexico budget for below-the-line crew wages; provided that sufficient and qualified below-the-line crew who are New Mexico residents are not available. A film production company that is approved for the additional credit by meeting the requirements of this paragraph shall make a financial or promotional contribution toward educational, media-related nonprofit or workforce development efforts in New Mexico, as determined by the division; and~~

~~(3) the film production company makes financial or promotional contributions toward educational or workforce development efforts in New Mexico as determined by the division, including:~~

~~(a) a payment to a New Mexico educational institution that administers at least one industry-recognized film or multimedia program, as determined by the division, equal to at least two and one-half percent of the direct production expenditures for the payment of wages, fringe benefits and per diem for nonresident industry crew made by the~~

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~~film production company to nonresident industry crew; or~~

~~(b) promotion of the New Mexico film industry by directors, actors or producers affiliated with the film production company's project through: 1) social media that is managed by the state; 2) radio interviews facilitated by the division; 3) enhanced screen credit acknowledgments; or 4) related events that are facilitated, conducted or sponsored by the division.~~

~~B. The credit provided by this section may be referred to as the "nonresidential below-the-line crew credit.]~~  
; and

(2) the film production company employs the following numbers of nonresident below-the-line crew in New Mexico and shall be as calculated by the division upon application for certification pursuant to Subsection A of Section 7-2F-12 NMSA 1978; provided that the total number shall not exceed twenty positions:

(a) five positions if the production's final New Mexico budget is up to two million seven hundred fifty thousand dollars (\$2,750,000);

(b) ten positions if the production's final New Mexico budget is greater than two million seven hundred fifty thousand dollars (\$2,750,000) and up to seven million five hundred thousand dollars (\$7,500,000);

(c) fifteen positions if the

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production's final New Mexico budget is greater than seven million five hundred thousand dollars (\$7,500,000) and up to eleven million dollars (\$11,000,000);

(d) one position in addition to the number of positions provided in Subparagraph (c) of this paragraph for every ten million dollars (\$10,000,000) over eleven million dollars (\$11,000,000) of the production's final New Mexico budget; and

(e) five positions in addition to the number of positions provided in Subparagraphs (a) through (d) of this paragraph for a television pilot episode that has been ordered to series; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico."

SECTION 8. Section 21-19-13 NMSA 1978 (being Laws 2005, Chapter 102, Section 3, as amended) is amended to read:

"21-19-13. DISTRIBUTIONS OF DEVELOPMENT TRAINING FUNDS.--

A. Of appropriations made in any fiscal year for development training, up to two-thirds shall be expended in urban communities in the state. At least one-third of the appropriations made in any fiscal year for development training shall be expended in nonurban communities.

B. Of money available in the development training fund, the economic development department may use in any fiscal year:

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(1) up to fifty thousand dollars (\$50,000) to generally administer the development training program; and

(2) in addition to the general administration funding allowed in Paragraph (1) of this subsection, up to fifty thousand dollars (\$50,000) to administer the provisions of Section 21-19-7.1 NMSA 1978.

C. Up to [~~two million dollars (\$2,000,000)~~] four million dollars (\$4,000,000) of development training funds may be used to reimburse film and multimedia production companies and to provide on-the-job and preemployment training for that industry pursuant to the provisions of Section 21-19-7.1 NMSA 1978.

D. Up to one million dollars (\$1,000,000) disbursed annually from the development training program may be dedicated to development training in green industries.

E. As used in this section:

(1) "green industries" means industries that contribute directly to preserving or enhancing environmental quality by reducing waste and pollution or by producing sustainable products using sustainable processes and materials. Green industries provide opportunities for advancement along a career track of increasing skills and wages. Green industries include:

(a) energy system retrofits to increase energy efficiency and conservation;

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- (b) production and distribution of biofuels and vehicle retrofits for biofuels;
  - (c) building design and construction that meet the equivalent of best available technology in energy and environmental design standards;
  - (d) organic and community food production;
  - (e) manufacture of products from non-toxic, environmentally certified or recycled materials;
  - (f) manufacture and production of sustainable technologies, including solar panels, wind turbines and fuel cells;
  - (g) solar technology installation and maintenance;
  - (h) recycling, green composting and large-scale reuse of construction and demolition materials and debris; and
  - (i) water system retrofits to increase water efficiency and conservation;
- (2) "nonurban community" means a municipality that is not an urban community or is the unincorporated area of a county; and
- (3) "urban community" means a municipality with a population of forty thousand or more according to the most recent federal decennial census."

**SECTION 9. [NEW MATERIAL] FILM AND MEDIA FUND.--**The

"film and media fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. Money in the fund is appropriated to the economic development department for the purpose of equipping, furnishing and operating one or more media academies to train students and to promote filmmaking across the state. Money in the fund shall be disbursed on warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development.

**SECTION 10. REPEAL.--**Section 15-3B-7.1 NMSA 1978 (being Laws 2001, Chapter 196, Section 1, as amended) is repealed.

**SECTION 11. APPLICABILITY.--**The provisions of Sections 1 through 7 of this act apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2023.

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