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SENATE BILL 555

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO TAXATION; REQUIRING REPORTING OF ALL EXPENDITURES  
TO APPLY FOR THE FILM PRODUCTION TAX CREDIT.

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

**SECTION 1.** Section 7-2F-1 NMSA 1978 (being Laws 2002,  
Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be  
referred to as the "film production tax credit". An eligible  
film production company may apply for, and the taxation and  
revenue department may allow, a tax credit in an amount equal  
to the percentage specified in Subsection B of this section of:

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

(a) are directly attributable to the

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

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

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

8 (2) postproduction expenditures made in New  
9 Mexico that:

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

12 (b) are for services performed in New  
13 Mexico;

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

16 (d) exclude postproduction expenditures  
17 for which another taxpayer claims the film production tax  
18 credit.

19 B. Except as provided in Subsections C and J of  
20 this section, the percentage to be applied in calculating the  
21 amount of the film production tax credit is twenty-five  
22 percent.

23 C. With respect to expenditures attributable to a  
24 production for which the film production company receives a tax  
25 credit pursuant to the federal new markets tax credit program,

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1 the percentage to be applied in calculating the film production  
2 tax credit is twenty percent.

3 D. The film production tax credit shall not be  
4 claimed with respect to direct production expenditures or  
5 postproduction expenditures for which the film production  
6 company has delivered a nontaxable transaction certificate  
7 pursuant to Section 7-9-86 NMSA 1978.

8 E. A long-form narrative film production for which  
9 the film production tax credit is claimed pursuant to Paragraph  
10 (1) of Subsection A of this section shall contain an  
11 acknowledgment that the production was filmed in New Mexico.

12 F. To be eligible for the film production tax  
13 credit, a film production company shall submit to the New  
14 Mexico film division of the economic development department all  
15 direct production expenditures and postproduction expenditures  
16 as defined in Section 7-2F-2 NMSA 1978 and information required  
17 by the division to demonstrate conformity with the requirements  
18 of this section and shall agree in writing:

19 (1) to pay all obligations the film production  
20 company has incurred in New Mexico;

21 (2) to publish, at completion of principal  
22 photography, a notice at least once a week for three  
23 consecutive weeks in local newspapers in regions where filming  
24 has taken place to notify the public of the need to file  
25 creditor claims against the film production company by a

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1 specified date;

2 (3) that outstanding obligations are not  
3 waived should a creditor fail to file by the specified date;  
4 and

5 (4) to delay filing of a claim for the film  
6 production tax credit until the New Mexico film division  
7 delivers written notification to the taxation and revenue  
8 department that the film production company has fulfilled all  
9 requirements for the credit.

10 G. The New Mexico film division shall determine the  
11 eligibility of the company and shall report this information to  
12 the taxation and revenue department in a manner and at times  
13 the economic development department and the taxation and  
14 revenue department shall agree upon.

15 H. To receive a film production tax credit, a film  
16 production company shall apply to the taxation and revenue  
17 department on forms and in the manner the department may  
18 prescribe. The application shall include a certification of  
19 the amount of direct production expenditures or postproduction  
20 expenditures made in New Mexico with respect to the film  
21 production for which the film production company is seeking the  
22 film production tax credit. If the requirements of this  
23 section have been complied with, the taxation and revenue  
24 department shall approve the film production tax credit and  
25 issue a document granting the tax credit.

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