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SENATE BILL 568

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

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO STATE REVENUES; CAPPING THE FILM PRODUCTION TAX CREDIT TO REDUCE EXPENDITURES; PROVIDING FOR DISTRIBUTIONS TO THE EDUCATIONAL RETIREMENT BOARD EQUAL TO THE AMOUNT OF REDUCED EXPENDITURES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. ~~[NEW MATERIAL]~~ DISTRIBUTION--EDUCATIONAL RETIREMENT FUND.--For the period beginning July 1, 2011 and ending June 30, 2016, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the retiree health care fund in the amount of two million five hundred thousand dollars (\$2,500,000) each month.

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

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

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

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

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

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

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

18 (2) postproduction expenditures made in New
19 Mexico that:

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

22 (b) are for services performed in New
23 Mexico;

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

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1 (d) exclude postproduction expenditures
2 for which another taxpayer claims the film production tax
3 credit.

4 B. Except as provided in Subsections C and [~~J~~] K of
5 this section, the percentage to be applied in calculating the
6 amount of the film production tax credit is twenty-five
7 percent.

8 C. With respect to expenditures attributable to a
9 production for which the film production company receives a tax
10 credit pursuant to the federal new markets tax credit program,
11 the percentage to be applied in calculating the film production
12 tax credit is twenty percent.

13 D. The aggregate amount of the film production tax
14 credits that may be allowed in any calendar year is forty-five
15 million dollars (\$45,000,000) with respect to the direct
16 production expenditures or postproduction expenditures made on
17 film or commercial audiovisual products. A film production
18 company that submits a claim for a film production tax credit
19 that is unable to receive the tax credit because the claims for
20 the year exceed the limitation in this subsection shall be
21 placed for the subsequent calendar year at the front of a queue
22 of film production tax credit claimants submitting claims in
23 the subsequent calendar year in the order of the date on which
24 the credit was authorized for payment.

25 [~~D-~~] E. The film production tax credit shall not be

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1 claimed with respect to direct production expenditures or
2 postproduction expenditures for which the film production
3 company has delivered a nontaxable transaction certificate
4 pursuant to Section 7-9-86 NMSA 1978.

5 ~~[E-]~~ F. A long-form narrative film production for
6 which the film production tax credit is claimed pursuant to
7 Paragraph (1) of Subsection A of this section shall contain an
8 acknowledgment that the production was filmed in New Mexico.

9 ~~[F-]~~ G. To be eligible for the film production tax
10 credit, a film production company shall submit to the New
11 Mexico film division of the economic development department
12 information required by the division to demonstrate conformity
13 with the requirements of this section and shall agree in
14 writing:

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

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

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

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

6 [~~G.~~] H. The New Mexico film division shall
7 determine the eligibility of the company and shall report this
8 information to the taxation and revenue department in a manner
9 and at times the economic development department and the
10 taxation and revenue department shall agree upon.

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

22 [~~I.~~] J. The film production company may apply all
23 or a portion of the film production tax credit granted against
24 personal income tax liability or corporate income tax
25 liability. If the amount of the film production tax credit

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1 claimed exceeds the film production company's tax liability for
2 the taxable year in which the credit is being claimed, the
3 excess shall be refunded.

4 ~~[J.]~~ K. As applied to direct production
5 expenditures for the services of performing artists, the film
6 production tax credit authorized by this section shall not
7 exceed five million dollars (\$5,000,000) for services rendered
8 by all performing artists in a production for which the film
9 production tax credit is claimed."

10 **SECTION 3. APPLICABILITY.**--The provisions of Section 2 of
11 this act apply to claims allowed by the taxation and revenue
12 department pursuant to Section 7-2F-1 NMSA 1978 in taxable
13 years beginning on or after January 1, 2011.