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SENATE BILL 565

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO THE FILM PRODUCTION TAX CREDIT ACT; LIMITING THE TYPES OF DIRECT PRODUCTION EXPENDITURES THAT MAY BE ELIGIBLE FOR ADDITIONAL CREDIT; REDUCING THE CREDIT AMOUNT FOR THE USE OF NONRESIDENT INDUSTRY CREW; EXCLUDING PAYMENTS TO CERTAIN ARTISTS FROM THE LIMITATION OF DIRECT PRODUCTION EXPENDITURES; AMENDING THE DEFINITIONS USED IN THE FILM PRODUCTION TAX CREDIT ACT; LIMITING THE TYPES OF DIRECT PRODUCTION EXPENDITURES PAID TO A NONRESIDENT PERFORMING ARTIST THAT ARE ELIGIBLE FOR THE CREDIT; REDEFINING "QUALIFIED PRODUCTION FACILITY".

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

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1 referred to as the "film production tax credit".

2 B. Except as otherwise provided in this section, an  
3 eligible film production company may apply for, and the  
4 taxation and revenue department may allow, subject to the  
5 limitation in this section, a tax credit in an amount equal to  
6 ~~[the percentage specified in Subsection B of this section]~~  
7 twenty-five percent 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;

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

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

25 (2) postproduction expenditures made in New

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1 Mexico that:

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

4 (b) are for services performed in New  
5 Mexico;

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

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

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

18 ~~[B. Except as otherwise provided in this section,~~  
19 ~~the percentage to be applied in calculating the amount of the~~  
20 ~~film production tax credit is twenty-five percent.]~~

21 C. In addition to the percentage applied pursuant  
22 to Subsection B of this section, another five percent shall be  
23 applied in calculating the amount of the film production tax  
24 credit to direct production expenditures, except expenditures  
25 for which a credit may be claimed pursuant to Subsection D of

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1 this section:

2 (1) on a stand-alone pilot intended for series  
3 television in New Mexico or on series television productions  
4 intended for commercial distribution with an order for at least  
5 six episodes in a single season; provided that the New Mexico  
6 budget [per episode] for each of those six episodes is fifty  
7 thousand dollars (\$50,000) or more; and provided further that,  
8 on or after July 1, 2015, for film production companies  
9 commencing principal photography, direct production  
10 expenditures for nonresident performing artists shall not  
11 receive the additional five percent provided by this  
12 subsection; or

13 (2) that are directly attributable to [~~the~~  
14 ~~wages and fringe benefits~~] direct production expenditures paid  
15 to a New Mexico resident [directly employed in an industry crew  
16 position], excluding a performing artist and background artist,  
17 for the duration of production in New Mexico, who is hired as  
18 industry crew, or who is either a producer, writer or director  
19 working directly with the physical production and who has filed  
20 a New Mexico income tax return as a resident in the two  
21 previous taxable years, on a production with a total New Mexico  
22 budget of:

23 (a) not more than thirty million dollars  
24 (\$30,000,000) that shoots at least ten principal photography  
25 days in New Mexico at a qualified production facility [~~in New~~

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1 ~~Mexico~~; provided that a film production company in principal  
2 photography on or after April 10, 2015 shall: 1) shoot at  
3 least six of those days at a sound stage that is a qualified  
4 production facility and the remaining days, if any, at a  
5 standing set that is a qualified production facility; and 2)  
6 for each of the ten days, include industry crew working on the  
7 premises of those facilities for a minimum of eight hours  
8 within a twenty-four-hour period; or

9 (b) thirty million dollars (\$30,000,000)  
10 or more that shoots at least fifteen principal photography days  
11 in New Mexico at a qualified production facility [~~in New~~  
12 ~~Mexico~~]; provided that a film production company in principal  
13 photography on or after April 10, 2015 shall: 1) shoot at  
14 least eight days of those at a sound stage that is a qualified  
15 production facility and the remaining days, if any, at a  
16 standing set that is a qualified production facility; and 2)  
17 for each day of the fifteen days, include industry crew working  
18 on the premises of the facility for a minimum of eight hours  
19 within a twenty-four-hour period.

20 D. An eligible film production company may apply  
21 for, and the taxation and revenue department may allow, subject  
22 to the limitation in this section, a tax credit in an amount  
23 equal to fifteen percent of direct production expenditures for  
24 the payment of wages, fringe benefits and per diem for  
25 nonresident industry crew; provided that:

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1                   (1) the service for which payment is made is  
2 rendered in New Mexico;

3                   (2) payments for nonresident industry crew  
4 exclude payments for production designer, director of  
5 photography, line producer, costume designer, still unit  
6 photographer and driver whose sole responsibility is driving;

7                   (3) the number of positions of nonresident  
8 industry crew employed by the film production company for the  
9 entirety of the project, as calculated by the division upon  
10 receipt of the first application for a film production tax  
11 credit, shall not exceed:

12                           (a) four positions for up to two million  
13 dollars (\$2,000,000) of the final New Mexico budget;

14                           (b) one additional position for each one  
15 million dollars (\$1,000,000) of the project's final New Mexico  
16 budget of at least two million dollars (\$2,000,000) up to ten  
17 million dollars (\$10,000,000);

18                           (c) one additional position for each  
19 five million dollars (\$5,000,000) of the project's final New  
20 Mexico budget of at least ten million dollars (\$10,000,000) up  
21 to fifty million dollars (\$50,000,000);

22                           (d) one additional position for every  
23 ten million dollars (\$10,000,000) of the project's final New  
24 Mexico budget of at least fifty million dollars (\$50,000,000)  
25 and thereafter up to a maximum of thirty positions; and

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1                   (e) eight additional positions for a  
2 television pilot episode that has not been ordered to series at  
3 the time of New Mexico production; provided that the film  
4 production company certifies to the division that the series is  
5 intended to be produced in New Mexico if the pilot is ordered  
6 to series; and

7                   (4) the film production company makes  
8 financial or promotional contributions toward educational or  
9 workforce development efforts in New Mexico as determined by  
10 the division, including:

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

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

25                   ~~[D-]~~ E. With respect to expenditures attributable

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1 to a production for which the film production company receives  
2 a tax credit pursuant to the federal new markets tax credit  
3 program, the percentage to be applied in calculating the film  
4 production tax credit is twenty percent.

5 ~~[E-]~~ F. A claim for film production tax credits  
6 shall be filed as part of a return filed pursuant to the Income  
7 Tax Act or the Corporate Income and Franchise Tax Act or an  
8 information return filed by a pass-through entity. The date a  
9 credit claim is received by the department shall determine the  
10 order that a credit claim is authorized for payment by the  
11 department. Except as otherwise provided in this section, the  
12 aggregate amount of the film production tax credit claims that  
13 may be authorized for payment in any fiscal year is fifty  
14 million dollars (\$50,000,000) with respect to the direct  
15 production expenditures or postproduction expenditures made on  
16 film or commercial audiovisual products. A film production  
17 company that submits a claim for a film production tax credit  
18 that is unable to receive the tax credit because the claims for  
19 the fiscal year exceed the limitation in this subsection shall  
20 be placed for the subsequent fiscal year at the front of a  
21 queue of film production tax credit claimants submitting claims  
22 in the subsequent fiscal year in the order of the date on which  
23 the credit was authorized for payment.

24 ~~[F-]~~ G. If, in fiscal years 2013 through 2015, the  
25 aggregate amount in each fiscal year of the film production tax

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1 credit claims authorized for payment is less than fifty million  
2 dollars (\$50,000,000), then the difference in that fiscal year  
3 or ten million dollars (\$10,000,000), whichever is less, shall  
4 be added to the aggregate amount of the film production tax  
5 credit claims that may be authorized for payment pursuant to  
6 Subsection [~~E~~] F of this section in the immediately following  
7 fiscal year.

8 [~~G~~] H. Except as otherwise provided in this  
9 section, credit claims authorized for payment pursuant to the  
10 Film Production Tax Credit Act shall be paid pursuant to  
11 provisions of the Tax Administration Act to the taxpayer as  
12 follows:

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

16 (2) a credit claim amount of two million  
17 dollars (\$2,000,000) or more but less than five million dollars  
18 (\$5,000,000) per taxable year shall be divided into two equal  
19 payments, with the first payment to be made immediately upon  
20 authorization of the payment of the credit claim and the second  
21 payment to be made twelve months following the date of the  
22 first payment; and

23 (3) a credit claim amount of five million  
24 dollars (\$5,000,000) or more per taxable year shall be divided  
25 into three equal payments, with the first payment to be made

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1 immediately upon authorization of payment of the credit claim,  
2 the second payment to be made twelve months following the date  
3 of the first payment and the third payment to be made twenty-  
4 four months following the date of the first payment.

5 ~~[H.]~~ I. For a fiscal year in which the amount of  
6 total credit claims authorized for payment is less than the  
7 aggregate amount of the film production tax credit claims that  
8 may be authorized for payment pursuant to this section, the  
9 next scheduled payments for credit claims authorized for  
10 payment pursuant to Subsection ~~[G]~~ H of this section shall be  
11 accelerated for payment for that fiscal year and shall be paid  
12 to a taxpayer pursuant to the Tax Administration Act and in the  
13 order in which outstanding payments are scheduled in the queue  
14 established pursuant to Subsections ~~[E]~~ F and ~~[G]~~ H of this  
15 section; provided that the total credit claims authorized for  
16 payment shall not exceed the aggregate amount of the film  
17 production tax credit claims that may be authorized for payment  
18 pursuant to this section. If a partial payment is made  
19 pursuant to this subsection, the difference owed shall retain  
20 its original position in the queue.

21 ~~[I.]~~ J. Any amount of a credit claim that is  
22 carried forward pursuant to Subsection ~~[G]~~ H of this section  
23 shall be subject to the limit on the aggregate amount of credit  
24 claims that may be authorized for payment pursuant to  
25 Subsections ~~[E]~~ F and ~~[F]~~ G of this section in the fiscal year

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1 in which that amount is paid.

2 [J-] K. A credit claim shall only be considered  
3 received by the department if the credit claim is made on a  
4 complete return filed after the close of the taxable year. All  
5 direct production expenditures and postproduction expenditures  
6 incurred during the taxable year by a film production company  
7 shall be submitted as part of the same income tax return and  
8 paid pursuant to this section. A credit claim shall not be  
9 divided and submitted with multiple returns or in multiple  
10 years.

11 [K-] L. For purposes of determining the payment of  
12 credit claims pursuant to this section, the secretary of  
13 taxation and revenue may require that credit claims of  
14 affiliated persons be combined into one claim if necessary to  
15 accurately reflect closely integrated activities of affiliated  
16 persons.

17 [L-] M. The film production tax credit shall not be  
18 claimed with respect to direct production expenditures or  
19 postproduction expenditures for which the film production  
20 company has delivered a nontaxable transaction certificate  
21 pursuant to Section 7-9-86 NMSA 1978.

22 [M-] N. A production for which the film production  
23 tax credit is claimed pursuant to Paragraph (1) of Subsection  
24 [A] B of this section shall contain an acknowledgment in the  
25 end screen credits that the production was filmed in New

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1 Mexico, and a state logo provided by the division shall be  
2 included in the end screen credits of long-form narrative film  
3 productions and television episodes, unless otherwise agreed  
4 upon in writing by the film production company and the  
5 division.

6 ~~[N-]~~ O. To be eligible for the film production tax  
7 credit, a film production company shall submit to the division  
8 information required by the division to demonstrate conformity  
9 with the requirements of the Film Production Tax Credit Act,  
10 including detailed information on each direct production  
11 expenditure and each postproduction expenditure. A film  
12 production company shall make reasonable efforts, as determined  
13 by the division, to contract with a specialized vendor that  
14 provides goods and services, inventory or services directly  
15 related to that vendor's ordinary course of business. A film  
16 production company shall provide to the division a projection  
17 of the film production tax credit claim the film production  
18 company plans to submit in the fiscal year. In addition, the  
19 film production company shall agree in writing:

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

22 (2) to post a notice at completion of  
23 principal photography on the web site of the division that:

24 (a) contains production company  
25 information, including the name of the production, the address

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1 of the production company and contact information that includes  
2 a working phone number, fax number and email address for both  
3 the local production office and the permanent production office  
4 to notify the public of the need to file creditor claims  
5 against the film production company; and

6 (b) remains posted on the web site until  
7 all financial obligations incurred in the state by the film  
8 production company have been paid;

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

11 (4) to delay filing of a claim for the film  
12 production tax credit until the division delivers written  
13 notification to the taxation and revenue department that the  
14 film production company has fulfilled all requirements for the  
15 credit; and

16 (5) to submit a completed application for the  
17 film production tax credit and supporting documentation to the  
18 division within one year of ~~[making the final]~~ the close of the  
19 film production company's taxable year in which expenditures in  
20 New Mexico were incurred for the registered project and that  
21 are included in the credit claim.

22 [0-] P. The division shall determine the  
23 eligibility of the company and shall report this information to  
24 the taxation and revenue department in a manner and at times  
25 the economic development department and the taxation and

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1 revenue department shall agree upon. The division shall also  
2 post on its web site all information provided by the film  
3 production company that does not reveal revenue, income or  
4 other information that may jeopardize the confidentiality of  
5 income tax returns, including that the division shall report  
6 ~~[monthly]~~ quarterly the projected amount of credit claims for  
7 the fiscal year.

8 ~~[P-]~~ Q. To provide guidance to film production  
9 companies regarding the amount of credit capacity remaining in  
10 the fiscal year, the taxation and revenue department shall post  
11 monthly on that department's web site the aggregate amount of  
12 credits claimed and processed for the fiscal year.

13 ~~[Q-]~~ R. To receive a film production tax credit, a  
14 film production company shall apply to the taxation and revenue  
15 department on forms and in the manner the department may  
16 prescribe. The application shall include a certification of  
17 the amount of direct production expenditures or postproduction  
18 expenditures made in New Mexico with respect to the film  
19 production for which the film production company is seeking the  
20 film production tax credit; provided that for the film  
21 production tax credit, the application shall be submitted  
22 within one year of the date of the last direct production  
23 expenditure in New Mexico or the last postproduction  
24 expenditure in New Mexico incurred within the film production  
25 company's taxable year. If the amount of the requested tax

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1 credit exceeds five million dollars (\$5,000,000), the  
2 application shall also include the results of an audit,  
3 conducted by a certified public accountant licensed to practice  
4 in New Mexico, verifying that the expenditures have been made  
5 in compliance with the requirements of this section. If the  
6 requirements of this section have been complied with, subject  
7 to the provisions of Subsection [~~E~~] F of this section, the  
8 taxation and revenue department shall approve the film  
9 production tax credit and issue a document granting the tax  
10 credit.

11 [~~R-~~] S. The film production company may apply all  
12 or a portion of the film production tax credit granted against  
13 personal income tax liability or corporate income tax  
14 liability. If the amount of the film production tax credit  
15 claimed exceeds the film production company's tax liability for  
16 the taxable year in which the credit is being claimed, the  
17 excess shall be refunded.

18 [~~S-~~] T. As applied to direct production  
19 expenditures for the services of performing artists, the film  
20 production tax credit authorized by this section shall not  
21 exceed five million dollars (\$5,000,000) in total payments for  
22 services rendered [~~by all performing artists~~] in a production  
23 for which the film production tax credit is claimed. This  
24 limitation shall not apply to the services of background  
25 artists and resident performing artists who are not cast in

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1 standard industry principal lead roles."

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

4 "7-2F-2. DEFINITIONS.--As used in the Film Production Tax  
5 Credit Act:

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

12 B. "commercial audiovisual product" means a film or  
13 a videogame intended for commercial exploitation;

14 C. "direct production expenditure":

15 (1) except as provided in Paragraph (2) of  
16 this subsection, means a transaction that is subject to  
17 taxation in New Mexico, including:

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

21 (b) payment for ~~[services by]~~ wages and  
22 per diem for a performing artist who is not a New Mexico  
23 resident and who is directly employed by the film production  
24 company; provided that the film production company deducts and  
25 remits, or causes to be deducted and remitted, income tax from

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1 the first day of services rendered in New Mexico at the maximum  
2 rate pursuant to the Withholding Tax Act;

3 (c) payment to a personal services  
4 business for the [~~services~~] wages and per diem of a performing  
5 artist if: 1) the personal services business pays gross  
6 receipts tax in New Mexico on the portion of those payments  
7 qualifying for the tax credit; and 2) the film production  
8 company deducts and remits, or causes to be deducted and  
9 remitted, income tax at the maximum rate in New Mexico pursuant  
10 to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of  
11 those payments qualifying for the tax credit paid to a personal  
12 services business where the performing artist is a full or part  
13 owner of that business or subcontracts with a personal services  
14 business where the performing artist is a full or part owner of  
15 that business; and

16 (d) any of the following provided by a  
17 vendor: 1) the story and scenario to be used for a film; 2)  
18 set construction and operations, wardrobe, accessories and  
19 related services; 3) photography, sound synchronization,  
20 lighting and related services; 4) editing and related services;  
21 5) rental of facilities and equipment; 6) leasing of vehicles,  
22 not including the chartering of aircraft for out-of-state  
23 transportation; however, New Mexico-based chartered aircraft  
24 for in-state transportation directly attributable to the  
25 production shall be considered a direct production expenditure;

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1 provided that only the first one hundred dollars (\$100) of the  
2 daily expense of leasing a vehicle for passenger transportation  
3 on roadways in the state may be claimed as a direct production  
4 expenditure; 7) food or lodging; provided that only the first  
5 one hundred fifty dollars (\$150) of lodging per individual per  
6 day is eligible to be claimed as a direct production  
7 expenditure; 8) commercial airfare if purchased through a New  
8 Mexico-based travel agency or travel company for travel to and  
9 from New Mexico or within New Mexico that is directly  
10 attributable to the production; 9) insurance coverage and  
11 bonding if purchased through a New Mexico-based insurance  
12 agent, broker or bonding agent; 10) services for an external  
13 audit upon submission of an application for a film production  
14 tax credit by an accounting firm that submits the application  
15 pursuant to Section 7-2F-1 NMSA 1978; and ~~[10]~~ 11) other  
16 direct costs of producing a film in accordance with generally  
17 accepted entertainment industry practice; and

18 (2) does not include an expenditure for:

19 (a) a gift with a value greater than  
20 twenty-five dollars (\$25.00);

21 (b) artwork or jewelry, except that a  
22 work of art or a piece of jewelry may be a direct production  
23 expenditure if: 1) it is used in the film production; and 2)  
24 the expenditure is less than two thousand five hundred dollars  
25 (\$2,500);

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1 (c) entertainment, amusement or  
2 recreation; or

3 (d) subcontracted goods or services  
4 provided by a vendor when subcontractors are not subject to  
5 state taxation, such as equipment and locations provided by the  
6 military, government and religious organizations; [~~or~~

7 ~~(e) a service provided by a person who  
8 is not a New Mexico resident and employed in an industry crew  
9 position, excluding a performing artist, where it is the  
10 standard entertainment industry practice for the film  
11 production company to employ a person for that industry crew  
12 position, except when the person who is not a New Mexico  
13 resident is hired or subcontracted by a vendor; and when the  
14 film production company, as determined by the division and when  
15 applicable in consultation with industry, provides: 1)  
16 reasonable efforts to hire resident crew; and 2) financial or  
17 in-kind contributions toward education or work force  
18 development efforts in New Mexico, including at least one of  
19 the following: a pre-approved workshop; on-set shadowing per  
20 each approved position; or ten percent of the portion of the  
21 tax credit attributable to the payment for services provided by  
22 nonresidents employed by the vendor in the approved positions,  
23 which equates to two-and-one-half percent of the respective  
24 total direct production expenditure and which is allocated to  
25 New Mexico public education institutions that administer at~~

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1 ~~least one industry-recognized film or multimedia program;~~

2 D. "division" means the New Mexico film division of  
3 the economic development department;

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

7 F. "film" means a single medium or multimedia  
8 program, excluding advertising messages other than national or  
9 regional advertising messages intended for exhibition, that:

10 (1) is fixed on film, a digital medium,  
11 videotape, computer disc, laser disc or other similar delivery  
12 medium;

13 (2) can be viewed or reproduced;

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

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

18 G. "film production company" means a person that  
19 produces one or more films or any part of a film;

20 H. "fiscal year" means the state fiscal year  
21 beginning on July 1;

22 I. "industry crew" means a person in a position  
23 that is off-camera and who provides industry-standard technical  
24 services during the physical production of a film; but  
25 "industry crew" does not include a writer, director or

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1 producer;

2 [~~F.~~] J. "New Mexico resident" means an individual  
3 who is domiciled in this state during any part of the taxable  
4 year or an individual who is physically present in this state  
5 for one hundred eighty-five days or more during the taxable  
6 year; but any individual, other than someone who was physically  
7 present in the state for one hundred eighty-five days or more  
8 during the taxable year and who, on or before the last day of  
9 the taxable year, changed the individual's place of abode to a  
10 place without this state with the bona fide intention of  
11 continuing actually to abide permanently without this state is  
12 not a resident for the purposes of the Film Production Tax  
13 Credit Act for periods after that change of abode;

14 [~~J.~~] K. "personal services business" means a  
15 business organization, with or without physical presence, that  
16 receives payments pursuant to the Film Production Tax Credit  
17 Act for the services of a performing artist;

18 [~~K.~~] L. "physical presence" means a physical  
19 address in New Mexico from which a vendor conducts business,  
20 stores inventory or otherwise creates, assembles or offers for  
21 sale the product purchased or leased by a film production  
22 company;

23 [~~L.~~] M. "postproduction expenditure" means an  
24 expenditure for editing, Foley recording, automatic dialogue  
25 replacement, sound editing, special effects, including

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underscored material = new  
[bracketed material] = delete

1 computer-generated imagery or other effects, scoring and music  
2 editing, beginning and end credits, negative cutting,  
3 soundtrack production, dubbing, subtitling or addition of sound  
4 or visual effects; but not including an expenditure for  
5 advertising, marketing, distribution or expense payments;

6 [M-] N. "qualified production facility" means a  
7 building or complex of buildings and their improvements and  
8 ~~[associated]~~ back-lot facilities, owned and controlled by the  
9 same entity, in which films are or are intended to be regularly  
10 produced and that contain at least one:

11 (1) sound stage with contiguous, clear-span  
12 floor space of at least seven thousand square feet and a  
13 ceiling height of no less than twenty-one feet; or

14 (2) standing set that includes at least one  
15 interior and more than one exterior built or re-purposed for  
16 film production use on a continual basis and is located on at  
17 least fifty acres of contiguous space designated for film  
18 production use; and

19 [N-] O. "vendor" means a person ~~[selling]~~ who sells  
20 or leases goods or services that are related to a standard  
21 industry category of inventory, who has a physical presence in  
22 New Mexico and is subject to gross receipts tax pursuant to the  
23 Gross Receipts and Compensating Tax Act and income tax pursuant  
24 to the Income Tax Act or corporate income tax pursuant to the  
25 Corporate Income and Franchise Tax Act. ~~[but excludes services~~

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underscored material = new  
[bracketed material] = delete

1 ~~provided by nonresidents hired or subcontracted if the tasks~~  
2 ~~and responsibilities are associated with:~~

3 ~~(1) the standard industry job position of:~~

4 ~~(a) a director;~~

5 ~~(b) a writer;~~

6 ~~(c) a producer;~~

7 ~~(d) an associate producer;~~

8 ~~(e) a co-producer;~~

9 ~~(f) an executive producer;~~

10 ~~(g) a production supervisor;~~

11 ~~(h) a director of photography;~~

12 ~~(i) a motion picture driver whose sole~~  
13 ~~responsibility is driving;~~

14 ~~(j) a production or personal assistant;~~

15 ~~(k) a designer;~~

16 ~~(l) a still photographer; or~~

17 ~~(m) a carpenter and utility technician~~  
18 ~~at an entry level; and~~

19 ~~(2) nonstandard industry job positions and~~  
20 ~~personal support services] "Vendor" does not include a personal~~  
21 ~~services business."~~

22 SECTION 3. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is January 1, 2016.