

REFERENCE TITLE: **multimedia production tax credits**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1159**

Introduced by

Senators Nelson, Gallardo; Representatives Fillmore, Gallego, Tovar, Urie:  
Senators Antenori, Crandall, Driggs, McComish, Melvin, Reagan, Smith;  
Representatives Dial, Gowan, Miranda C, Miranda R, Montenegro, Pratt,  
Tobin, Yee

### **AN ACT**

REPEALING SECTIONS 43-1075 AND 43-1163, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1075; AMENDING SECTION 43-1075.01, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1163; AMENDING SECTION 43-1163.01, ARIZONA REVISED STATUTES; RELATING TO MOTION PICTURE PRODUCTION INCOME TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 43-1075 and 43-1163, Arizona Revised Statutes, are repealed.

4 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
5 amended by adding a new section 43-1075, to read:

6 43-1075. Credit for qualified motion picture production  
7 expenditures in Arizona; definitions

8 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010  
9 THROUGH DECEMBER 31, 2040, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY  
10 THIS TITLE FOR QUALIFIED PRODUCTION EXPENDITURES BY A MOTION PICTURE  
11 PRODUCTION COMPANY IN THIS STATE. A PRODUCTION COMPANY MAY ONLY RECEIVE A  
12 CREDIT THAT IS BASED ON THE QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY  
13 THE PRODUCTION COMPANY AND CERTIFIED BY THE DEPARTMENT OF REVENUE.

14 B. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION  
15 IS:

16 1. TWENTY PER CENT OF THE AMOUNT OF QUALIFIED PRODUCTION EXPENDITURES  
17 EXCEEDING TWO HUNDRED FIFTY THOUSAND DOLLARS.

18 2. AN ADDITIONAL FIVE PER CENT OF THE AMOUNT OF QUALIFIED PRODUCTION  
19 EXPENDITURES IF, FOR AT LEAST FIFTY PER CENT OF THE PRODUCTION, THE  
20 PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY THAT MEETS THE  
21 FOLLOWING REQUIREMENTS:

22 (a) THE PRIVATELY FUNDED PRODUCTION FACILITY MUST EMPLOY RESIDENTS OF  
23 THIS STATE FOR AT LEAST FIFTY PER CENT OF ITS FULL-TIME EMPLOYMENT POSITIONS  
24 IN THIS STATE.

25 (b) THE PRIVATELY FUNDED PRODUCTION FACILITY MUST HAVE CERTIFIED  
26 INFRASTRUCTURE INVESTMENT WITH A VALUE OF AT LEAST FIFTY MILLION DOLLARS,  
27 DETERMINED AS FOLLOWS:

28 (i) THE PRODUCTION FACILITY MAY APPLY TO THE DIRECTOR OF THE  
29 DEPARTMENT OF REVENUE TO CERTIFY THE VALUE OF ITS INFRASTRUCTURE INVESTMENT.

30 (ii) WITHIN THIRTY DAYS AFTER THE DATE OF APPLICATION, THE DIRECTOR  
31 SHALL CERTIFY THE VALUE BASED ON DOCUMENTATION SUBMITTED WITH THE  
32 APPLICATION, INCLUDING THE FINDINGS OF ANY MANAGED REVIEW UNDER ITEM (iii) OF  
33 THIS SUBDIVISION.

34 (iii) BEFORE SUBMITTING AN APPLICATION, THE PRODUCTION FACILITY MAY  
35 ENTER INTO A WRITTEN MANAGED REVIEW AGREEMENT WITH THE DIRECTOR THAT  
36 ESTABLISHES THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED AT THE  
37 PRODUCTION FACILITY'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY AN  
38 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WHO IS SELECTED BY THE PRODUCTION  
39 FACILITY, WHO IS LICENSED IN THIS STATE AND WHO IS APPROVED BY THE DIRECTOR.  
40 THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT  
41 IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION  
42 FACILITY OR ANY AFFILIATE OF THE PRODUCTION FACILITY. THE CERTIFIED PUBLIC  
43 ACCOUNTANT SHALL PROVIDE WRITTEN FINDINGS AS REQUIRED BY THE MANAGED REVIEW  
44 AGREEMENT. THE DIRECTOR SHALL REVIEW THE FINDINGS AND MAY FURTHER EXAMINE  
45 RECORDS AND PERFORM OTHER REVIEWS THAT THE DIRECTOR CONSIDERS NECESSARY TO

1 VERIFY THAT THE MANAGED REVIEW SUBSTANTIALLY CONFORMS TO THE TERMS OF THE  
2 MANAGED REVIEW AGREEMENT. THE DIRECTOR SHALL ACCEPT OR REJECT THE FINDINGS  
3 OF THE MANAGED REVIEW. IF THE DIRECTOR REJECTS ALL OR PART OF THE MANAGED  
4 REVIEW, THE DIRECTOR SHALL PROVIDE WRITTEN REASONS FOR THE REJECTION. IF THE  
5 DIRECTOR ACCEPTS THE FINDINGS OF THE MANAGED REVIEW AND ISSUES A  
6 CERTIFICATION OF INFRASTRUCTURE INVESTMENT VALUE, THAT AMOUNT IS ACCEPTED AND  
7 NOT SUBJECT TO FURTHER REVIEW.

8 (iv) THE DIRECTOR SHALL ISSUE A WRITTEN CERTIFICATE TO THE PRODUCTION  
9 FACILITY STATING THE CERTIFIED AMOUNT OF THE INFRASTRUCTURE INVESTMENT.

10 C. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED FIFTEEN MILLION DOLLARS  
11 FOR ANY INDIVIDUAL PRODUCTION BY A QUALIFIED PRODUCTION COMPANY.

12 D. AN APPROVED CREDIT OFFSETS TAX LIABILITY FOR THE TAXABLE YEAR FOR  
13 WHICH THE CREDIT WAS ORIGINALLY ALLOCATED. THE CREDITS MUST BE CLAIMED ON A  
14 TIMELY FILED ORIGINAL INCOME TAX RETURN, INCLUDING EXTENSIONS. THE  
15 DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A TAXPAYER WHO HAS  
16 A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS TITLE OR  
17 TITLE 42.

18 E. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
19 MUST:

20 1. HAVE QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO HUNDRED  
21 FIFTY THOUSAND DOLLARS IN PRODUCTION COSTS.

22 2. NOT INCLUDE PROPERTY WITH RESPECT TO WHICH RECORDS ARE REQUIRED TO  
23 BE MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

24 3. ENTER INTO A WRITTEN MANAGED REVIEW AGREEMENT WITH THE DIRECTOR  
25 THAT ESTABLISHES THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED AT THE  
26 PRODUCTION COMPANY'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY AN  
27 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WHO IS SELECTED BY THE PRODUCTION  
28 COMPANY, WHO IS LICENSED IN THIS STATE AND WHO IS APPROVED BY THE DIRECTOR.  
29 THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT  
30 IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION  
31 COMPANY OR ANY AFFILIATE OF THE PRODUCTION COMPANY. THE CERTIFIED PUBLIC  
32 ACCOUNTANT SHALL FURNISH WRITTEN FINDINGS OF THE MANAGED REVIEW TO THE  
33 DIRECTOR. THE DIRECTOR SHALL REVIEW THE FINDINGS AND MAY FURTHER EXAMINE  
34 RECORDS AND PERFORM OTHER REVIEWS THAT THE DIRECTOR CONSIDERS NECESSARY TO  
35 VERIFY THAT THE MANAGED REVIEW SUBSTANTIALLY CONFORMS TO THE TERMS OF THE  
36 MANAGED REVIEW AGREEMENT. THE DIRECTOR SHALL ACCEPT OR REJECT THE FINDINGS  
37 OF THE MANAGED REVIEW. IF THE DIRECTOR REJECTS ALL OR PART OF THE MANAGED  
38 REVIEW, THE DIRECTOR SHALL PROVIDE WRITTEN REASONS FOR THE REJECTION. IF THE  
39 DIRECTOR ACCEPTS THE FINDINGS OF THE MANAGED REVIEW AND THE PRODUCTION  
40 COMPANY TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM  
41 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,  
42 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S  
43 ACCEPTANCE SHALL INCLUDE A WRITTEN CERTIFICATE TO THE PRODUCTION COMPANY  
44 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO  
45 RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A

1 PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION  
2 DURING THE MANAGED REVIEW OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE  
3 ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE REVIEW.

4 4. INCLUDE IN THE END CREDITS, AN ACKNOWLEDGEMENT THAT THE PRODUCTION  
5 WAS FILMED IN ARIZONA.

6 5. RECEIVE PREAPPROVAL AND POSTAPPROVAL CERTIFICATION OF THE  
7 PRODUCTION FROM THE DEPARTMENT AS PROVIDED BY THIS SECTION.

8 F. A MOTION PICTURE PRODUCTION COMPANY INITIALLY APPLYING FOR  
9 QUALIFICATION UNDER THIS SECTION MUST REPORT THE FOLLOWING TO THE DEPARTMENT  
10 ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT:

11 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEBSITE OF THE MOTION  
12 PICTURE PRODUCTION COMPANY.

13 2. THE NAME AND ADDRESS OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF  
14 EXPENDITURES IN THIS STATE.

15 3. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE IN  
16 THIS STATE.

17 4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS  
18 STATE.

19 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

20 6. THE ESTIMATED TOTAL EXPENDITURES IN THIS STATE.

21 7. THE ESTIMATED TOTAL NUMBER OF DAYS IN PREPRODUCTION, PRODUCTION AND  
22 POSTPRODUCTION TAKING PLACE IN THIS STATE.

23 8. THE ESTIMATED LEVEL OF EMPLOYMENT OF RESIDENTS OF THIS STATE IN THE  
24 CAST AND CREW.

25 9. A SCRIPT, INCLUDING A SYNOPSIS, THE PROPOSED DIRECTOR AND A  
26 PRELIMINARY LIST OF THE CAST AND PRODUCER, EXCEPT THAT, WITH RESPECT TO A  
27 TELEVISION SERIES, OTHER THAN A PILOT PRODUCTION, IN LIEU OF A SCRIPT THE  
28 APPLICANT MUST INCLUDE:

29 (a) A SYNOPSIS OF THE GENERAL NATURE OF THE SERIES.

30 (b) A DESCRIPTION OF THE CHARACTERS AND THE INTENDED NATURE OF THEIR  
31 INTERACTION WITH EACH OTHER.

32 (c) A DESCRIPTION OF THE LOCATIONS.

33 (d) A DESCRIPTION OF THE SETS.

34 (e) THE INTENDED DISTRIBUTION OR BROADCAST MEDIUM WITH SPECIFIC  
35 TELEVISION NETWORKS, IF KNOWN.

36 10. AN AFFIRMATION SIGNED BY A PRINCIPAL OF THE PRODUCTION COMPANY WHO  
37 WILL BE CREDITED ON SCREEN AS THE PRODUCER OR PRODUCERS OF THE MOTION PICTURE  
38 THAT THE MOTION PICTURE PRODUCTION COMPANY AGREES TO FURNISH RECORDS OF  
39 EXPENDITURES IN THIS STATE TO THE DEPARTMENT ON REQUEST.

40 G. THE DEPARTMENT SHALL:

41 1. ESTABLISH THE PROCESS BY WHICH THE DEPARTMENT QUALIFIES AND  
42 PREAPPROVES A PRODUCTION COMPANY FOR A TAX CREDIT UNDER THIS SECTION.

43 2. REVIEW ALL APPLICATIONS WITHIN THIRTY DAYS AFTER SUBMISSION OF A  
44 COMPLETE APPLICATION PURSUANT TO SUBSECTION F OF THIS SECTION TO DETERMINE

1 WHETHER THE MOTION PICTURE PRODUCTION COMPANY SATISFIES ALL OF THE CRITERIA  
2 PROVIDED IN SUBSECTION E OF THIS SECTION.

3 H. THE DEPARTMENT MAY CONDUCT A SITE VISIT TO VERIFY THAT PRODUCTION  
4 HAS BEGUN.

5 I. PREAPPROVAL OF A PRODUCTION LAPSES, THE APPLICATION IS VOID AND THE  
6 AMOUNT OF THE PREAPPROVED CREDIT DOES NOT APPLY AGAINST THE DOLLAR LIMIT  
7 PRESCRIBED BY SUBSECTION J OF THIS SECTION IF, WITHIN NINETY DAYS AFTER THE  
8 DEPARTMENT PREAPPROVES THE PRODUCTION, THE PRODUCTION COMPANY FAILS TO  
9 PROVIDE DOCUMENTATION OF EITHER:

10 1. ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

11 (a) TEN PER CENT OF THE ESTIMATED TOTAL STATED BUDGET OF THE  
12 PRODUCTION.

13 (b) TWO HUNDRED FIFTY THOUSAND DOLLARS.

14 2. A COMPLETION BOND, EQUAL TO THE ESTIMATED TOTAL BUDGET OF THE  
15 PREAPPROVED PRODUCTION. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPLETION  
16 BOND" MEANS AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN INSURANCE COMPANY WITH  
17 AN INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M. BEST COMPANY GUARANTYING  
18 TO THE FINANCIERS OF THE PROJECT THAT IT WILL BE COMPLETED ACCORDING TO THE  
19 TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY THE PRODUCTION COMPANY IN  
20 ITS APPLICATION.

21 J. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE  
22 PURPOSES OF THIS SECTION AND SECTIONS 43-1075.01, 43-1163 AND 43-1163.01 THAT  
23 EXCEED A TOTAL OF SEVENTY MILLION DOLLARS FOR A SINGLE YEAR. OF THAT AMOUNT:

24 1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF  
25 INFRASTRUCTURE CREDITS PURSUANT TO SECTIONS 43-1075.01 AND 43-1163.01.

26 2. FOUR MILLION DOLLARS IS RESERVED FOR THE PURPOSES OF COMMERCIAL  
27 ADVERTISEMENTS AND MUSIC VIDEO PRODUCTION PURSUANT TO SUBSECTION O OF THIS  
28 SECTION AND SECTION 43-1163, SUBSECTION O.

29 K. A PREAPPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT PRESCRIBED BY  
30 SUBSECTION J OF THIS SECTION FOR THE YEAR IN WHICH THE APPLICATION WAS  
31 SUBMITTED REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO  
32 THE FOLLOWING YEAR OR YEARS. BEFORE THE EXPIRATION OF THE INITIAL  
33 PREAPPROVAL OR REQUALIFICATION PERIOD, A PRODUCTION COMPANY MAY VOLUNTARILY  
34 RELINQUISH UNUSED CREDIT AMOUNTS.

35 L. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDITS BASED ON  
36 PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE PRODUCTION COMPANY FILES  
37 ITS APPLICATION, EXCEPT THAT:

38 1. A TELEVISION SERIES PRODUCTION SHALL BE GIVEN PRIORITY PLACEMENT  
39 BEFORE ANY OTHER PRODUCTION THAT HAS NOT ALREADY RECEIVED PREAPPROVAL FOR THE  
40 CURRENT YEAR.

41 2. A TELEVISION SERIES THAT WAS PREAPPROVED IN A PREVIOUS YEAR AND  
42 OTHERWISE MET THE REQUIREMENTS OF THIS SECTION IN THAT YEAR SHALL BE GIVEN  
43 PRIORITY PLACEMENT BEFORE ANY OTHER NEW APPLICANT, OTHER THAN ANOTHER  
44 TELEVISION SERIES WITH AN EARLIER PRIORITY PLACEMENT ESTABLISHED BY THE DATE

1 THAT TELEVISION SERIES PRODUCTION COMPANY FILED ITS INITIAL APPLICATION OR  
2 QUALIFICATION.

3 M. THE DEPARTMENT SHALL REALLOCATE THE AMOUNT OF CREDITS THAT IS  
4 VOLUNTARILY RELINQUISHED UNDER SUBSECTION K OF THIS SECTION, THAT LAPSES  
5 UNDER SUBSECTION I OF THIS SECTION OR THAT LAPSES UNDER SUBSECTION Q,  
6 PARAGRAPH 1 OF THIS SECTION. THE CREDITS SHALL BE REALLOCATED TO OTHER  
7 MOTION PICTURE PRODUCTION COMPANIES THAT APPLIED IN THE ORIGINAL CREDIT YEAR  
8 BASED ON PRIORITY PLACEMENT AS PROVIDED BY SUBSECTION L OF THIS SECTION. THE  
9 AMOUNT OF THE REALLOCATED CREDITS CONTINUES TO APPLY AGAINST THE DOLLAR LIMIT  
10 OF THE ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION  
11 OCCURS. IF FOR ANY YEAR AN UNUSED BALANCE OCCURS IN THE CREDITS AUTHORIZED  
12 UNDER THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION:

13 1. THE BALANCE SHALL BE ALLOCATED TO MOTION PICTURE PRODUCTION  
14 COMPANIES THAT SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER SUBSECTION Q,  
15 PARAGRAPH 3 OF THIS SECTION OR SECTION 43-1163, SUBSECTION Q, PARAGRAPH 3.  
16 ANY AMOUNT OF TAX CREDITS DUE TO SUCCESSFUL APPEALS THAT ARE NOT PAID FROM AN  
17 UNUSED BALANCE IN ANY YEAR SHALL BE PAID AGAINST THE DOLLAR LIMIT PRESCRIBED  
18 BY SUBSECTION J OF THIS SECTION IN THE FOLLOWING YEAR.

19 2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES  
20 OF THIS SECTION IN THE FOLLOWING YEAR.

21 N. EXCEPT FOR APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT  
22 AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION O OF THIS SECTION, AFTER OCTOBER  
23 31 OF EACH YEAR, IF THE DEPARTMENT HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR  
24 TAX CREDIT AMOUNT PURSUANT TO SUBSECTION J, PARAGRAPH 2 OF THIS SECTION, THE  
25 DEPARTMENT SHALL ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR YEAR. THE  
26 PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION IS NOT EFFECTIVE  
27 BEFORE THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR. THE DEPARTMENT  
28 SHALL ACCEPT INITIAL APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT  
29 AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION O OF THIS SECTION ONLY DURING THE  
30 CALENDAR YEAR IN WHICH THE CREDITS WOULD BE ALLOCATED.

31 O. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL  
32 ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

33 1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY:

34 (a) AGGREGATE PRODUCTION COSTS FOR MULTIPLE PRODUCTIONS FOR THE  
35 PURPOSES OF REACHING THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF  
36 SUBSECTION B OF THIS SECTION.

37 (b) APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE PRODUCTION  
38 COMPANY REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION  
39 B OF THIS SECTION.

40 2. IN LIEU OF A SCRIPT, THE APPLICANT MUST SUBMIT A SYNOPSIS OR  
41 STORYBOARD THAT:

42 (a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL  
43 ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.

44 (b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.

45 (c) DESCRIBES THE LOCATION OR LOCATIONS.

- 1 (d) DESCRIBES THE SETS.  
2 (e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC  
3 CHANNELS, IF KNOWN.
- 4 3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN  
5 BUSINESS DAYS.
- 6 4. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED  
7 APPLICATION DO NOT QUALIFY AS PRODUCTION COSTS.
- 8 5. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES  
9 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE PRODUCTION  
10 COMPANY FILES ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL  
11 EXPENDITURES IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION  
12 43-1163.
- 13 6. WITHIN SIXTY DAYS, A PRODUCTION COMPANY THAT IS PREAPPROVED FOR A  
14 SPECIFIC COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION MUST PROVIDE TO  
15 THE DEPARTMENT DOCUMENTATION OF EXPENDITURES OF THE TOTAL AMOUNT OF ELIGIBLE  
16 PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION.
- 17 7. THE PRODUCTION COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE  
18 PRODUCTION COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY  
19 THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE  
20 PRODUCTION COMPANY REACHES THAT THRESHOLD, THE PRODUCTION COMPANY MAY APPLY  
21 TO THE DEPARTMENT FOR POSTAPPROVAL PURSUANT TO SUBSECTION P OF THIS SECTION.
- 22 8. IN ADDITION TO SUBSECTION U, PARAGRAPH 1 OF THIS SECTION, THE  
23 DEPARTMENT SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS  
24 NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.
- 25 P. ON COMPLETION OF A PREQUALIFIED MOTION PICTURE PRODUCTION, THE  
26 MOTION PICTURE PRODUCTION COMPANY MUST:
- 27 1. APPLY TO THE DEPARTMENT IN WRITING FOR POSTAPPROVAL OF INCOME TAX  
28 CREDITS.
- 29 2. SUBMIT A VIEWABLE COPY OF THE MOTION PICTURE, EXCEPT THAT A MOTION  
30 PICTURE PRODUCTION COMPANY MAY APPLY FOR POSTAPPROVAL BEFORE A VIEWABLE COPY  
31 OF THE PRODUCTION IS AVAILABLE IF THE COMPANY SUBMITS WITH ITS APPLICATION A  
32 LETTER OF CREDIT, PAYABLE TO THE DEPARTMENT, PROVIDING THAT WITHIN TWO  
33 BUSINESS DAYS AFTER THE ISSUER RECEIVES A WRITTEN DETERMINATION FROM THE  
34 DEPARTMENT THAT THE PRODUCTION FAILS TO QUALIFY FOR THE TAX CREDITS THE  
35 ISSUER WILL PAY TO THE DEPARTMENT THE FULL FACE VALUE OF THE INCOME TAX  
36 CREDITS IN THE APPLICATION. IF THE DEPARTMENT DRAWS ON THE LETTER OF CREDIT,  
37 THE MONIES SHALL BE TRANSFERRED TO AND HELD IN AN INTEREST BEARING ACCOUNT  
38 PENDING THE FINAL OUTCOME OF AN APPEAL, IF ANY. THE LETTER OF CREDIT MAY BE  
39 RELEASED ON THE DEPARTMENT'S DETERMINATION THAT THE COMPLETED PRODUCTION  
40 QUALIFIES FOR THE TAX CREDITS.
- 41 3. CERTIFY THE TOTAL AMOUNT OF ACTUAL ELIGIBLE PRODUCTION COSTS  
42 ASSOCIATED WITH THE PROJECT.
- 43 Q. WITHIN NINETY DAYS AFTER THE MOTION PICTURE PRODUCTION COMPANY'S  
44 APPLICATION FOR POSTAPPROVAL, THE DEPARTMENT MUST EITHER:

1           1. PROVIDE POSTAPPROVAL IF THE PRODUCTION COMPANY HAS MET THE  
2 ELIGIBILITY REQUIREMENTS OF THIS SECTION. IF THE AMOUNT OF APPROVED  
3 PRODUCTION COSTS IS LESS THAN THE PREAPPROVED AMOUNT, THE AMOUNT NOT INCLUDED  
4 IN POSTAPPROVAL LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED  
5 BY SUBSECTION J OF THIS SECTION FOR THAT YEAR. ON A DETERMINATION BY THE  
6 DEPARTMENT THAT A MOTION PICTURE PRODUCTION COMPANY QUALIFIES FOR TAX CREDITS  
7 UNDER THIS SECTION, THE DEPARTMENT SHALL ISSUE THE PRODUCTION COMPANY A  
8 WRITTEN LETTER OF QUALIFICATION. A LETTER OF QUALIFICATION IS EFFECTIVE FOR  
9 TWENTY-FOUR CONSECUTIVE MONTHS AS STATED IN THE LETTER.

10           2. REQUEST ADDITIONAL INFORMATION NECESSARY FOR A DETERMINATION OF  
11 ELIGIBILITY. IF THE PRODUCTION COMPANY SUPPLIES REQUESTED ADDITIONAL  
12 INFORMATION TO THE DEPARTMENT, THE APPLICATION IS CONSIDERED TO BE APPROVED  
13 IF THE DEPARTMENT FAILS TO TAKE FURTHER ACTION WITHIN THIRTY DAYS. IN ANY  
14 EVENT, ONE HUNDRED TWENTY DAYS AFTER THE PRODUCTION COMPANY'S APPLICATION FOR  
15 POSTAPPROVAL, THE APPLICATION IS CONSIDERED TO BE APPROVED WITH RESPECT TO  
16 ALL AMOUNTS NOT SUBJECT TO THE DEPARTMENT'S REQUEST FOR ADDITIONAL  
17 INFORMATION.

18           3. ISSUE A DENIAL OF POSTAPPROVAL WITH WRITTEN FINDINGS SUPPORTING THE  
19 DENIAL. THE DEPARTMENT SHALL DENY AN APPLICATION FOR POSTAPPROVAL SUBMITTED  
20 ON COMPLETION OF A PRODUCTION IF:

21           (a) THE PRODUCTION COMPANY DOES NOT MEET ALL OF THE ESTABLISHED  
22 CRITERIA PRESCRIBED IN SUBSECTION E OF THIS SECTION.

23           (b) THE DEPARTMENT DETERMINES THAT, REGARDLESS OF THE PRODUCTION  
24 MEDIUM:

25           (i) THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR  
26 OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

27           (ii) THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13,  
28 CHAPTER 35.

29           (iii) THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR  
30 OR COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1.

31           R. IF A PREAPPROVED MOTION PICTURE PRODUCTION COMPANY FAILS TO  
32 UNDERTAKE PRODUCTION AND ALSO FAILS TO VOLUNTARILY RELINQUISH THE UNUSED  
33 CREDIT AMOUNTS FOR REALLOCATION BY THE DEPARTMENT AS PROVIDED BY SUBSECTION K  
34 OF THIS SECTION WITHIN THE NINETY-DAY PERIOD, THE PRODUCTION COMPANY AND ALL  
35 PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL ARE DISQUALIFIED FROM  
36 RECEIVING, OR PARTICIPATING IN ANY MOTION PICTURE PRODUCTION COMPANY THAT  
37 APPLIES FOR OR RECEIVES, TAX CREDITS PURSUANT TO THIS SECTION FOR THREE YEARS  
38 AFTER THE ORIGINAL APPLICATION.

39           S. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING  
40 PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND  
41 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL  
42 REVENUE CODE, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE  
43 CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP  
44 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE MOTION

1 PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
2 ALLOWED FOR A SOLE OWNER OF THE COMPANY.

3 T. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES  
4 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO  
5 STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT  
6 USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE  
7 SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS  
8 SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT  
9 DETERMINES THAT ANY AMOUNT REFUNDED PURSUANT TO THIS SECTION IS INCORRECT OR  
10 INVALID, THE EXCESS CREDIT AMOUNT REFUNDED MAY BE TREATED AS A TAX DEFICIENCY  
11 PURSUANT TO SECTION 42-1108.

12 U. THE DEPARTMENT SHALL:

13 1. ADOPT RULES, FORMS AND PROCEDURES AS NECESSARY TO FACILITATE THE  
14 ORDERLY APPLICATION, EVALUATION AND APPROVAL OF CREDITS UNDER THIS SECTION  
15 AND SECTION 43-1163, AND POST THOSE RULES, FORMS AND PROCEDURES ON THE  
16 DEPARTMENT'S OFFICIAL WEBSITE.

17 2. MAINTAIN ANNUAL DATA AND OTHER INFORMATION ON THE TOTAL AMOUNT OF  
18 MONIES CREDITED PURSUANT TO THIS SECTION.

19 V. A PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE  
20 NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT  
21 INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT  
22 OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR.

23 W. ANY INFORMATION GATHERED FROM MOTION PICTURE PRODUCTION COMPANIES  
24 AND PRIVATELY FUNDED PRODUCTION FACILITIES FOR THE PURPOSES OF THIS SECTION  
25 IS CONSIDERED CONFIDENTIAL TAXPAYER INFORMATION, EXCEPT THAT THE DEPARTMENT  
26 SHALL PUBLISH THE FOLLOWING INFORMATION IN ITS ANNUAL REPORT:

27 1. THE NAME OF EACH MOTION PICTURE PRODUCTION COMPANY AND PRIVATELY  
28 FUNDED PRODUCTION FACILITY, THE NUMBER OF DAYS SHOOTING AND THE NUMBER OF  
29 FULL TIME EQUIVALENT EMPLOYEES, ITEMIZED BY PRODUCTIONS IN PREPRODUCTION,  
30 PRODUCTION AND POSTPRODUCTION STAGE OF ACTIVITY.

31 2. THE AMOUNT OF INCOME TAX CREDITS PREAPPROVED DURING THE TAXABLE  
32 YEAR.

33 3. THE AMOUNT OF CREDITS POSTAPPROVED WITH RESPECT TO EACH PRODUCTION  
34 DURING THE YEAR.

35 X. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE PRODUCTION  
36 EXPENDITURES UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION  
37 43-1075.01 FOR THE SAME COSTS.

38 Y. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR  
39 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL  
40 REVENUE CODE.

41 Z. FOR THE PURPOSES OF THIS SECTION:

42 1. "INFRASTRUCTURE INVESTMENT" MEANS EXPENDITURES FOR SOUNDSTAGES AND  
43 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND  
44 THAT ARE USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE  
45 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES.

1           2. "MOTION PICTURE PRODUCTION COMPANY" OR "PRODUCTION COMPANY" MEANS  
2 ANY PERSON PRIMARILY ENGAGED IN THE BUSINESS OF PRODUCING ENTERTAINMENT  
3 CONTENT CREATED IN WHOLE OR IN PART WITHIN THIS STATE, INCLUDING MOTION  
4 PICTURES, DOCUMENTARIES, LONG-FORM PRODUCTIONS, SPECIALS, SERIES, MINISERIES,  
5 SOUND RECORDINGS, VIDEOS AND MUSIC VIDEOS AND INTERSTITIALS, TELEVISION  
6 PROGRAMMING, INTERACTIVE TELEVISION, INTERACTIVE GAMES, VIDEOGAMES,  
7 COMMERCIALS, INFOMERCIALS, ANY FORMAT OF DIGITAL MEDIA, INCLUDING AN  
8 INTERACTIVE WEBSITE, CREATED FOR DISTRIBUTION OR EXHIBITION TO THE GENERAL  
9 PUBLIC, AND ANY TRAILER, PILOT, VIDEO TEASER OR DEMO CREATED PRIMARILY TO  
10 STIMULATE THE SALE, MARKETING, PROMOTION OR EXPLOITATION OF FUTURE INVESTMENT  
11 IN EITHER A PRODUCT OR A QUALIFIED PRODUCTION BY ANY MEANS AND MEDIA IN ANY  
12 DIGITAL FORMAT, FILM OR VIDEOTAPE. PRODUCTION COMPANY DOES NOT INCLUDE ANY  
13 ONGOING TELEVISION PROGRAM CREATED PRIMARILY AS NEWS, WEATHER OR FINANCIAL  
14 MARKET REPORTS, A PRODUCTION FEATURING CURRENT EVENTS, SPORTING EVENTS AND  
15 AWARDS SHOW OR OTHER GALA EVENT, A PRODUCTION WHOSE SOLE PURPOSE IS  
16 FUND-RAISING, A PRODUCTION USED FOR CORPORATE TRAINING OR IN-HOUSE CORPORATE  
17 ADVERTISING OR OTHER SIMILAR PRODUCTIONS FOR WHICH RECORDS ARE REQUIRED TO BE  
18 MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

19           3. "PRIVATELY FUNDED PRODUCTION FACILITY" OR "PRODUCTION FACILITY"  
20 MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR MORE SETS OR STAGES  
21 USED:

22           (a) BY ANY PRODUCTION COMPANY OR COMPANIES AND ANY LAND, PERMANENT  
23 BUILDINGS AND CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
24 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
25 COMPLEMENT PRODUCTION NEEDS.

26           (b) FOR STAGING AND FILMING BY A PRODUCTION COMPANY AND ANY LAND,  
27 PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS  
28 NECESSARY FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES  
29 USED TO COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND COMPLEMENT THE MOTION  
30 PICTURE PRODUCTION.

31           4. "QUALIFIED PRODUCTION EXPENDITURE" MEANS THE FOLLOWING EXPENDITURES  
32 DIRECTLY RELATED TO A PRODUCTION BY A PRODUCTION COMPANY:

33           (a) THE WAGES PAID TO RESIDENTS OF THIS STATE FOR WORK PERFORMED IN  
34 THIS STATE.

35           (b) FEES AND OTHER CHARGES FOR ATTORNEYS, ACCOUNTANTS AND OTHER  
36 PROFESSIONAL SERVICES THAT MAY BE LAWFULLY RENDERED ONLY BY A PERSON LICENSED  
37 OR OTHERWISE AUTHORIZED BY A LICENSING AUTHORITY IN THIS STATE TO RENDER THE  
38 SERVICE.

39           (c) MATERIAL PURCHASED FROM A VENDOR LOCATED IN THIS STATE FOR  
40 CONSTRUCTION OF SETS, SPECIAL EFFECTS AND OTHER PURPOSES.

41           (d) EQUIPMENT RENTED OR LEASED FROM A VENDOR LOCATED IN THIS STATE.

42           (e) EQUIPMENT ACQUIRED OR OTHERWISE PURCHASED FROM A VENDOR LOCATED IN  
43 THIS STATE.

44           (f) FACILITIES LEASED FROM A LESSEE LOCATED IN THIS STATE FOR  
45 PREPRODUCTION, PRODUCTION AND POSTPRODUCTION IN THIS STATE.

- 1 (g) HOTEL AND LODGING IN THIS STATE.
- 2 (h) FOOD EXPENSES, INCLUDING CATERING, PURCHASED IN THIS STATE.
- 3 (i) LOCATION FEES IN THIS STATE.
- 4 (j) POSTPRODUCTION EXPENSES IN THIS STATE.
- 5 (k) FUEL PURCHASED IN THIS STATE.
- 6 (l) VEHICLES RENTED IN THIS STATE.

7 5. "RESIDENT" MEANS AN INDIVIDUAL WHO HAS BEEN DOMICILED IN THIS STATE  
8 FOR AT LEAST NINETY DAYS OR WHO IS OTHERWISE IN THIS STATE FOR OTHER THAN A  
9 TEMPORARY OR TRANSITORY PURPOSE. EVIDENCE OF RESIDENCY INCLUDES AT LEAST ONE  
10 OF THE FOLLOWING: CURRENT OWNERSHIP OF RESIDENTIAL PROPERTY, DRIVER LICENSE,  
11 NONOPERATING IDENTIFICATION LICENSE, MOTOR VEHICLE REGISTRATION, VOTER  
12 REGISTRATION, STATE TAX RECORDS IN THIS STATE AND IN-STATE STUDENT  
13 CLASSIFICATION UNDER TITLE 15, CHAPTER 14, ARTICLE 1.

14 6. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR  
15 MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION  
16 COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR  
17 ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

18 7. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN  
19 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND  
20 COMPLEMENT THE PRODUCTION PROCESS.

21 8. "TELEVISION SERIES" MEANS A RECURRING OR EPISODIC PRODUCTION  
22 INTENDED IN ITS INITIAL RUN FOR BROADCAST ON FREE OR SUBSCRIPTION TELEVISION  
23 SERVICE THAT HAS A RUNNING TIME OF AT LEAST THIRTY MINUTES IN LENGTH,  
24 INCLUDING COMMERCIAL ADVERTISEMENT AND INTERSTITIAL PROGRAMMING. TELEVISION  
25 SERIES DOES NOT INCLUDE A PILOT PRODUCTION FOR THE PROMOTION OR INTRODUCTION  
26 OF A TELEVISION SERIES.

27 Sec. 3. Section 43-1075.01, Arizona Revised Statutes, is amended to  
28 read:

29 43-1075.01. Credit for motion picture infrastructure projects:  
30 definition

31 A. THROUGH DECEMBER 31, 2040, a credit is allowed against the taxes  
32 imposed by this title for investments in motion picture infrastructure  
33 projects in this state ~~as provided by section 41-1517.01~~. The amount of the  
34 credit is fifteen per cent of the total base investment in the project during  
35 the taxable year as approved and reported by the department ~~of commerce~~  
36 ~~pursuant to section 41-1517.01, subsection F~~ PURSUANT TO THIS SECTION. The  
37 taxpayer may apply the credit against income taxes for the taxable year in  
38 which the motion picture infrastructure project is completed ~~as provided by~~  
39 ~~section 41-1517.01, subsection F~~.

40 B. The department shall not allow:

41 1. Tax credits IN A TOTAL AMOUNT EXCEEDING TEN MILLION DOLLARS for any  
42 taxable year under this section and section 43-1163.01 ~~that would violate the~~  
43 ~~aggregate limits prescribed by section 41-1517.01, subsection C~~.

44 2. A tax credit under this section to a taxpayer who has a delinquent  
45 tax balance owing to the department under this title or title 42.

1 C. An applicant, at its expense, may voluntarily enter into a limited  
2 managed audit agreement pursuant to title 42, chapter 2, article 7 that  
3 includes an audit of its base investment and other requirements prescribed by  
4 ~~section 41-1517.01 and~~ by this section to confirm the amount of any credit  
5 under this section. The request to enter into the audit must be made after  
6 the applicant receives approval for the credit ~~pursuant to section~~  
7 ~~41-1517.01, subsection F.~~ The audit must be conducted by the applicant's  
8 authorized representative, as defined in section 42-2301, who is an  
9 independent certified public accountant licensed in this state. The  
10 certified public accountant and the firm the certified public accountant is  
11 affiliated with shall not regularly perform services for the taxpayer or its  
12 affiliates. If the director accepts the findings of the audit and issues a  
13 notice of determination pursuant to section 42-2303 and the taxpayer timely  
14 files its income tax return with the appropriate credit claim forms, the  
15 credit amount accepted is not subject to recapture, disallowance, reduction  
16 or denial with respect to either the taxpayer or any subsequent transferee of  
17 the credit, ~~and subsection F, paragraph 4 of this section does not apply.~~  
18 The director's notice of determination shall include a written certificate to  
19 the taxpayer stating the amount of the credit and that the credit is not  
20 subject to recapture from a transferee. This subsection does not prevent the  
21 recapture of a credit if the taxpayer failed to disclose material information  
22 during the audit or falsified its books or records or otherwise engaged in an  
23 action that prevented an accurate audit.

24 D. Co-owners of a business, including partners in a partnership,  
25 members of a limited liability company and shareholders of an S corporation  
26 as defined in section 1361 of the internal revenue code, may allocate the  
27 credit allowed under this section among the co-owners on any basis without  
28 regard to their proportional ownership interest. The total of the credits  
29 allowed all such owners may not exceed the amount that would have been  
30 allowed for a sole owner of the company.

31 E. If the allowable tax credit for a taxpayer exceeds the taxes  
32 otherwise due under this title on the claimant's income, or if there are no  
33 taxes due under this title, the taxpayer may carry the amount of the claim  
34 not used to offset the taxes under this title forward for not more than five  
35 consecutive taxable years' income tax liability.

36 ~~F. All or part of any unclaimed amount of credit under this section~~  
37 ~~may be sold or otherwise transferred under the following conditions:~~

38 ~~1. A single sale or transfer may involve one or more transferees, and~~  
39 ~~a transferee may in turn resell or transfer the credit subject to the same~~  
40 ~~conditions of this subsection.~~

41 ~~2. Both the transferor and transferee must submit a written notice of~~  
42 ~~the transfer to the department within thirty days after the sale or transfer.~~  
43 ~~The transferee's notice shall include a processing fee equal to one per cent~~  
44 ~~of the transferee's tax credit balance or two hundred dollars, whichever is~~  
45 ~~less. The notice shall include:~~

- 1 ~~(a) The name of the taxpayer.~~
- 2 ~~(b) The date of the transfer.~~
- 3 ~~(c) The amount of the transfer.~~
- 4 ~~(d) The transferor's tax credit balance before the transfer and the~~
- 5 ~~remaining balance after the transfer.~~
- 6 ~~(e) All tax identification numbers for both transferor and transferee.~~
- 7 ~~(f) Any other information required by rule.~~

8 ~~3. A sale or transfer of the credit does not extend the time in which~~

9 ~~the credit can be used. The carryforward period of time under subsection E~~

10 ~~of this section for a credit that is sold or transferred begins on the date~~

11 ~~the credit was originally earned.~~

12 ~~4. Except as provided by subsection C of this section, if a transferor~~

13 ~~was not qualified or was disqualified from using the credit at the time of~~

14 ~~the transfer, the department shall either disallow the credit claimed by a~~

15 ~~transferee or recapture the credit from the transferee through any authorized~~

16 ~~collection method. The transferee's recourse is against the transferor.~~

17 ~~5. In the case of any failure to comply with this subsection, the~~

18 ~~department shall disallow the tax credit until the taxpayer is in full~~

19 ~~compliance.~~

20 ~~G. F.~~ The department of revenue shall maintain annual data on the

21 total amount of monies credited pursuant to this section, and shall provide

22 ~~that data to the department of commerce on request.~~

23 ~~H. G.~~ The department of revenue, with the cooperation of the

24 ~~department of commerce,~~ shall adopt rules and publish and prescribe forms and

25 procedures as necessary to effectuate the purposes of this section.

26 ~~I. H.~~ A taxpayer who claims a credit for motion picture

27 infrastructure projects under this section shall not claim a credit under

28 section 43-1075 for the same costs.

29 ~~J. I.~~ The credit allowed by this section is in lieu of any allowance

30 for state tax purposes of a deduction of those expenses allowed by the

31 internal revenue code.

32 ~~K. J.~~ For the purposes of this section, "motion picture

33 infrastructure project" ~~has the same meaning prescribed in section~~

34 ~~41-1517-01:~~

35 (a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE

36 CONSTRUCTED IN THIS STATE AND THAT ARE USED FOR MOTION PICTURE PRODUCTION.

37 (b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL

38 EXHIBITION FACILITIES.

39 Sec. 4. Title 43, chapter 11, article 6, Arizona Revised Statutes, is

40 amended by adding a new section 43-1163, to read:

41 43-1163. Credit for qualified motion picture production

42 expenditures in Arizona; definitions

43 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010

44 THROUGH DECEMBER 31, 2040, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY

45 THIS TITLE FOR QUALIFIED PRODUCTION EXPENDITURES BY A MOTION PICTURE

1 PRODUCTION COMPANY IN THIS STATE. A PRODUCTION COMPANY MAY ONLY RECEIVE A  
2 CREDIT THAT IS BASED ON THE QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY  
3 THE PRODUCTION COMPANY AND CERTIFIED BY THE DEPARTMENT OF REVENUE.

4 B. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION  
5 IS:

6 1. TWENTY PER CENT OF THE AMOUNT OF QUALIFIED PRODUCTION EXPENDITURES  
7 EXCEEDING TWO HUNDRED FIFTY THOUSAND DOLLARS.

8 2. AN ADDITIONAL FIVE PER CENT OF THE AMOUNT OF QUALIFIED PRODUCTION  
9 EXPENDITURES IF, FOR AT LEAST FIFTY PER CENT OF THE PRODUCTION, THE  
10 PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY THAT MEETS THE  
11 FOLLOWING REQUIREMENTS:

12 (a) THE PRIVATELY FUNDED PRODUCTION FACILITY MUST EMPLOY RESIDENTS OF  
13 THIS STATE FOR AT LEAST FIFTY PER CENT OF ITS FULL-TIME EMPLOYMENT POSITIONS  
14 IN THIS STATE.

15 (b) THE PRIVATELY FUNDED PRODUCTION FACILITY MUST HAVE CERTIFIED  
16 INFRASTRUCTURE INVESTMENT WITH A VALUE OF AT LEAST FIFTY MILLION DOLLARS,  
17 DETERMINED AS FOLLOWS:

18 (i) THE PRODUCTION FACILITY MAY APPLY TO THE DIRECTOR OF THE  
19 DEPARTMENT OF REVENUE TO CERTIFY THE VALUE OF ITS INFRASTRUCTURE INVESTMENT.

20 (ii) WITHIN THIRTY DAYS AFTER THE DATE OF APPLICATION, THE DIRECTOR  
21 SHALL CERTIFY THE VALUE BASED ON DOCUMENTATION SUBMITTED WITH THE  
22 APPLICATION, INCLUDING THE FINDINGS OF ANY MANAGED REVIEW UNDER ITEM (iii) OF  
23 THIS SUBDIVISION.

24 (iii) BEFORE SUBMITTING AN APPLICATION, THE PRODUCTION FACILITY MAY  
25 ENTER INTO A WRITTEN MANAGED REVIEW AGREEMENT WITH THE DIRECTOR THAT  
26 ESTABLISHES THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED AT THE  
27 PRODUCTION FACILITY'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY AN  
28 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WHO IS SELECTED BY THE PRODUCTION  
29 FACILITY, WHO IS LICENSED IN THIS STATE AND WHO IS APPROVED BY THE DIRECTOR.  
30 THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT  
31 IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION  
32 FACILITY OR ANY AFFILIATE OF THE PRODUCTION FACILITY. THE CERTIFIED PUBLIC  
33 ACCOUNTANT SHALL PROVIDE WRITTEN FINDINGS AS REQUIRED BY THE MANAGED REVIEW  
34 AGREEMENT. THE DIRECTOR SHALL REVIEW THE FINDINGS AND MAY FURTHER EXAMINE  
35 RECORDS AND PERFORM OTHER REVIEWS THAT THE DIRECTOR CONSIDERS NECESSARY TO  
36 VERIFY THAT THE MANAGED REVIEW SUBSTANTIALLY CONFORMS TO THE TERMS OF THE  
37 MANAGED REVIEW AGREEMENT. THE DIRECTOR SHALL ACCEPT OR REJECT THE FINDINGS  
38 OF THE MANAGED REVIEW. IF THE DIRECTOR REJECTS ALL OR PART OF THE MANAGED  
39 REVIEW, THE DIRECTOR SHALL PROVIDE WRITTEN REASONS FOR THE REJECTION. IF THE  
40 DIRECTOR ACCEPTS THE FINDINGS OF THE MANAGED REVIEW AND ISSUES A  
41 CERTIFICATION OF INFRASTRUCTURE INVESTMENT VALUE, THAT AMOUNT IS ACCEPTED AND  
42 NOT SUBJECT TO FURTHER REVIEW.

43 (iv) THE DIRECTOR SHALL ISSUE A WRITTEN CERTIFICATE TO THE PRODUCTION  
44 FACILITY STATING THE CERTIFIED AMOUNT OF THE INFRASTRUCTURE INVESTMENT.

1 C. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED FIFTEEN MILLION DOLLARS  
2 FOR ANY INDIVIDUAL PRODUCTION BY A QUALIFIED PRODUCTION COMPANY.

3 D. AN APPROVED CREDIT OFFSETS TAX LIABILITY FOR THE TAXABLE YEAR FOR  
4 WHICH THE CREDIT WAS ORIGINALLY ALLOCATED. THE CREDITS MUST BE CLAIMED ON A  
5 TIMELY FILED ORIGINAL INCOME TAX RETURN, INCLUDING EXTENSIONS. THE  
6 DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A TAXPAYER WHO HAS  
7 A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS TITLE OR  
8 TITLE 42.

9 E. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
10 MUST:

11 1. HAVE QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO HUNDRED  
12 FIFTY THOUSAND DOLLARS IN PRODUCTION COSTS.

13 2. NOT INCLUDE PROPERTY WITH RESPECT TO WHICH RECORDS ARE REQUIRED TO  
14 BE MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

15 3. ENTER INTO A WRITTEN MANAGED REVIEW AGREEMENT WITH THE DIRECTOR  
16 THAT ESTABLISHES THE REQUIREMENTS OF A MANAGED REVIEW TO BE CONDUCTED AT THE  
17 PRODUCTION COMPANY'S EXPENSE. THE MANAGED REVIEW MUST BE CONDUCTED BY AN  
18 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WHO IS SELECTED BY THE PRODUCTION  
19 COMPANY, WHO IS LICENSED IN THIS STATE AND WHO IS APPROVED BY THE DIRECTOR.  
20 THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT  
21 IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION  
22 COMPANY OR ANY AFFILIATE OF THE PRODUCTION COMPANY. THE CERTIFIED PUBLIC  
23 ACCOUNTANT SHALL FURNISH WRITTEN FINDINGS OF THE MANAGED REVIEW TO THE  
24 DIRECTOR. THE DIRECTOR SHALL REVIEW THE FINDINGS AND MAY FURTHER EXAMINE  
25 RECORDS AND PERFORM OTHER REVIEWS THAT THE DIRECTOR CONSIDERS NECESSARY TO  
26 VERIFY THAT THE MANAGED REVIEW SUBSTANTIALLY CONFORMS TO THE TERMS OF THE  
27 MANAGED REVIEW AGREEMENT. THE DIRECTOR SHALL ACCEPT OR REJECT THE FINDINGS  
28 OF THE MANAGED REVIEW. IF THE DIRECTOR REJECTS ALL OR PART OF THE MANAGED  
29 REVIEW, THE DIRECTOR SHALL PROVIDE WRITTEN REASONS FOR THE REJECTION. IF THE  
30 DIRECTOR ACCEPTS THE FINDINGS OF THE MANAGED REVIEW AND THE PRODUCTION  
31 COMPANY TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM  
32 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,  
33 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S  
34 ACCEPTANCE SHALL INCLUDE A WRITTEN CERTIFICATE TO THE PRODUCTION COMPANY  
35 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO  
36 RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A  
37 PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION  
38 DURING THE MANAGED REVIEW OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE  
39 ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE REVIEW.

40 4. INCLUDE IN THE END CREDITS, AN ACKNOWLEDGEMENT THAT THE PRODUCTION  
41 WAS FILMED IN ARIZONA.

42 5. RECEIVE PREAPPROVAL AND POSTAPPROVAL CERTIFICATION OF THE  
43 PRODUCTION FROM THE DEPARTMENT AS PROVIDED BY THIS SECTION.

1 F. A MOTION PICTURE PRODUCTION COMPANY INITIALLY APPLYING FOR  
2 QUALIFICATION UNDER THIS SECTION MUST REPORT THE FOLLOWING TO THE DEPARTMENT  
3 ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT:

4 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEBSITE OF THE MOTION  
5 PICTURE PRODUCTION COMPANY.

6 2. THE NAME AND ADDRESS OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF  
7 EXPENDITURES IN THIS STATE.

8 3. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE IN  
9 THIS STATE.

10 4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS  
11 STATE.

12 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

13 6. THE ESTIMATED TOTAL EXPENDITURES IN THIS STATE.

14 7. THE ESTIMATED TOTAL NUMBER OF DAYS IN PREPRODUCTION, PRODUCTION AND  
15 POSTPRODUCTION TAKING PLACE IN THIS STATE.

16 8. THE ESTIMATED LEVEL OF EMPLOYMENT OF RESIDENTS OF THIS STATE IN THE  
17 CAST AND CREW.

18 9. A SCRIPT, INCLUDING A SYNOPSIS, THE PROPOSED DIRECTOR AND A  
19 PRELIMINARY LIST OF THE CAST AND PRODUCER, EXCEPT THAT, WITH RESPECT TO A  
20 TELEVISION SERIES, OTHER THAN A PILOT PRODUCTION, IN LIEU OF A SCRIPT THE  
21 APPLICANT MUST INCLUDE:

22 (a) A SYNOPSIS OF THE GENERAL NATURE OF THE SERIES.

23 (b) A DESCRIPTION OF THE CHARACTERS AND THE INTENDED NATURE OF THEIR  
24 INTERACTION WITH EACH OTHER.

25 (c) A DESCRIPTION OF THE LOCATIONS.

26 (d) A DESCRIPTION OF THE SETS.

27 (e) THE INTENDED DISTRIBUTION OR BROADCAST MEDIUM WITH SPECIFIC  
28 TELEVISION NETWORKS, IF KNOWN.

29 10. AN AFFIRMATION SIGNED BY A PRINCIPAL OF THE PRODUCTION COMPANY WHO  
30 WILL BE CREDITED ON SCREEN AS THE PRODUCER OR PRODUCERS OF THE MOTION PICTURE  
31 THAT THE MOTION PICTURE PRODUCTION COMPANY AGREES TO FURNISH RECORDS OF  
32 EXPENDITURES IN THIS STATE TO THE DEPARTMENT ON REQUEST.

33 G. THE DEPARTMENT SHALL:

34 1. ESTABLISH THE PROCESS BY WHICH THE DEPARTMENT QUALIFIES AND  
35 PREAPPROVES A PRODUCTION COMPANY FOR A TAX CREDIT UNDER THIS SECTION.

36 2. REVIEW ALL APPLICATIONS WITHIN THIRTY DAYS AFTER SUBMISSION OF A  
37 COMPLETE APPLICATION PURSUANT TO SUBSECTION F OF THIS SECTION TO DETERMINE  
38 WHETHER THE MOTION PICTURE PRODUCTION COMPANY SATISFIES ALL OF THE CRITERIA  
39 PROVIDED IN SUBSECTION E OF THIS SECTION.

40 H. THE DEPARTMENT MAY CONDUCT A SITE VISIT TO VERIFY THAT PRODUCTION  
41 HAS BEGUN.

42 I. PREAPPROVAL OF A PRODUCTION LAPSES, THE APPLICATION IS VOID AND THE  
43 AMOUNT OF THE PREAPPROVED CREDIT DOES NOT APPLY AGAINST THE DOLLAR LIMIT  
44 PRESCRIBED BY SUBSECTION J OF THIS SECTION IF, WITHIN NINETY DAYS AFTER THE

1 DEPARTMENT PREAPPROVES THE PRODUCTION, THE PRODUCTION COMPANY FAILS TO  
2 PROVIDE DOCUMENTATION OF EITHER:

3 1. ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

4 (a) TEN PER CENT OF THE ESTIMATED TOTAL STATED BUDGET OF THE  
5 PRODUCTION.

6 (b) TWO HUNDRED FIFTY THOUSAND DOLLARS.

7 2. A COMPLETION BOND, EQUAL TO THE ESTIMATED TOTAL BUDGET OF THE  
8 PREAPPROVED PRODUCTION. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPLETION  
9 BOND" MEANS AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN INSURANCE COMPANY WITH  
10 AN INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M. BEST COMPANY GUARANTYING  
11 TO THE FINANCIERS OF THE PROJECT THAT IT WILL BE COMPLETED ACCORDING TO THE  
12 TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY THE PRODUCTION COMPANY IN  
13 ITS APPLICATION.

14 J. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE  
15 PURPOSES OF THIS SECTION AND SECTIONS 43-1075, 43-1075.01 AND 43-1163.01 THAT  
16 EXCEED A TOTAL OF SEVENTY MILLION DOLLARS FOR A SINGLE YEAR. OF THAT AMOUNT:

17 1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF  
18 INFRASTRUCTURE CREDITS PURSUANT TO SECTIONS 43-1075.01 AND 43-1163.01.

19 2. FOUR MILLION DOLLARS IS RESERVED FOR THE PURPOSES OF COMMERCIAL  
20 ADVERTISEMENTS AND MUSIC VIDEO PRODUCTION PURSUANT TO SUBSECTION O OF THIS  
21 SECTION AND SECTION 43-1075, SUBSECTION O.

22 K. A PREAPPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT PRESCRIBED BY  
23 SUBSECTION J OF THIS SECTION FOR THE YEAR IN WHICH THE APPLICATION WAS  
24 SUBMITTED REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO  
25 THE FOLLOWING YEAR OR YEARS. BEFORE THE EXPIRATION OF THE INITIAL  
26 PREAPPROVAL OR REQUALIFICATION PERIOD, A PRODUCTION COMPANY MAY VOLUNTARILY  
27 RELINQUISH UNUSED CREDIT AMOUNTS.

28 L. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDITS BASED ON  
29 PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE PRODUCTION COMPANY FILES  
30 ITS APPLICATION, EXCEPT THAT:

31 1. A TELEVISION SERIES PRODUCTION SHALL BE GIVEN PRIORITY PLACEMENT  
32 BEFORE ANY OTHER PRODUCTION THAT HAS NOT ALREADY RECEIVED PREAPPROVAL FOR THE  
33 CURRENT YEAR.

34 2. A TELEVISION SERIES THAT WAS PREAPPROVED IN A PREVIOUS YEAR AND  
35 OTHERWISE MET THE REQUIREMENTS OF THIS SECTION IN THAT YEAR SHALL BE GIVEN  
36 PRIORITY PLACEMENT BEFORE ANY OTHER NEW APPLICANT, OTHER THAN ANOTHER  
37 TELEVISION SERIES WITH AN EARLIER PRIORITY PLACEMENT ESTABLISHED BY THE DATE  
38 THAT TELEVISION SERIES PRODUCTION COMPANY FILED ITS INITIAL APPLICATION OR  
39 QUALIFICATION.

40 M. THE DEPARTMENT SHALL REALLOCATE THE AMOUNT OF CREDITS THAT IS  
41 VOLUNTARILY RELINQUISHED UNDER SUBSECTION K OF THIS SECTION, THAT LAPSES  
42 UNDER SUBSECTION I OF THIS SECTION OR THAT LAPSES UNDER SUBSECTION Q,  
43 PARAGRAPH 1 OF THIS SECTION. THE CREDITS SHALL BE REALLOCATED TO OTHER  
44 MOTION PICTURE PRODUCTION COMPANIES THAT APPLIED IN THE ORIGINAL CREDIT YEAR  
45 BASED ON PRIORITY PLACEMENT AS PROVIDED BY SUBSECTION L OF THIS SECTION. THE

1 AMOUNT OF THE REALLOCATED CREDITS CONTINUES TO APPLY AGAINST THE DOLLAR LIMIT  
2 OF THE ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR IN WHICH THE REALLOCATION  
3 OCCURS. IF FOR ANY YEAR AN UNUSED BALANCE OCCURS IN THE CREDITS AUTHORIZED  
4 UNDER THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION:

5 1. THE BALANCE SHALL BE ALLOCATED TO MOTION PICTURE PRODUCTION  
6 COMPANIES THAT SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER SUBSECTION Q,  
7 PARAGRAPH 3 OF THIS SECTION OR SECTION 43-1075, SUBSECTION Q, PARAGRAPH 3.  
8 ANY AMOUNT OF TAX CREDITS DUE TO SUCCESSFUL APPEALS THAT ARE NOT PAID FROM AN  
9 UNUSED BALANCE IN ANY YEAR SHALL BE PAID AGAINST THE DOLLAR LIMIT PRESCRIBED  
10 BY SUBSECTION J OF THIS SECTION IN THE FOLLOWING YEAR.

11 2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES  
12 OF THIS SECTION IN THE FOLLOWING YEAR.

13 N. EXCEPT FOR APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT  
14 AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION O OF THIS SECTION, AFTER OCTOBER  
15 31 OF EACH YEAR, IF THE DEPARTMENT HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR  
16 TAX CREDIT AMOUNT PURSUANT TO SUBSECTION J, PARAGRAPH 2 OF THIS SECTION, THE  
17 DEPARTMENT SHALL ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR YEAR. THE  
18 PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION IS NOT EFFECTIVE  
19 BEFORE THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR. THE DEPARTMENT  
20 SHALL ACCEPT INITIAL APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT  
21 AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION O OF THIS SECTION ONLY DURING THE  
22 CALENDAR YEAR IN WHICH THE CREDITS WOULD BE ALLOCATED.

23 O. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL  
24 ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

25 1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY:

26 (a) AGGREGATE PRODUCTION COSTS FOR MULTIPLE PRODUCTIONS FOR THE  
27 PURPOSES OF REACHING THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF  
28 SUBSECTION B OF THIS SECTION.

29 (b) APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE PRODUCTION  
30 COMPANY REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION  
31 B OF THIS SECTION.

32 2. IN LIEU OF A SCRIPT, THE APPLICANT MUST SUBMIT A SYNOPSIS OR  
33 STORYBOARD THAT:

34 (a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL  
35 ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.

36 (b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.

37 (c) DESCRIBES THE LOCATION OR LOCATIONS.

38 (d) DESCRIBES THE SETS.

39 (e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC  
40 CHANNELS, IF KNOWN.

41 3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN  
42 BUSINESS DAYS.

43 4. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED  
44 APPLICATION DO NOT QUALIFY AS PRODUCTION COSTS.

1           5. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES  
2 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE PRODUCTION  
3 COMPANY FILES ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL  
4 EXPENDITURES IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION  
5 43-1075.

6           6. WITHIN SIXTY DAYS, A PRODUCTION COMPANY THAT IS PREAPPROVED FOR A  
7 SPECIFIC COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION MUST PROVIDE TO  
8 THE DEPARTMENT DOCUMENTATION OF EXPENDITURES OF THE TOTAL AMOUNT OF ELIGIBLE  
9 PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION.

10           7. THE PRODUCTION COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE  
11 PRODUCTION COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY  
12 THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE  
13 PRODUCTION COMPANY REACHES THAT THRESHOLD, THE PRODUCTION COMPANY MAY APPLY  
14 TO THE DEPARTMENT FOR POSTAPPROVAL PURSUANT TO SUBSECTION P OF THIS SECTION.

15           8. IN ADDITION TO SUBSECTION U, PARAGRAPH 1 OF THIS SECTION, THE  
16 DEPARTMENT SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS  
17 NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.

18           P. ON COMPLETION OF A PREQUALIFIED MOTION PICTURE PRODUCTION, THE  
19 MOTION PICTURE PRODUCTION COMPANY MUST:

20           1. APPLY TO THE DEPARTMENT IN WRITING FOR POSTAPPROVAL OF INCOME TAX  
21 CREDITS.

22           2. SUBMIT A VIEWABLE COPY OF THE MOTION PICTURE, EXCEPT THAT A MOTION  
23 PICTURE PRODUCTION COMPANY MAY APPLY FOR POSTAPPROVAL BEFORE A VIEWABLE COPY  
24 OF THE PRODUCTION IS AVAILABLE IF THE PRODUCTION COMPANY SUBMITS WITH ITS  
25 APPLICATION A LETTER OF CREDIT, PAYABLE TO THE DEPARTMENT, PROVIDING THAT  
26 WITHIN TWO BUSINESS DAYS AFTER THE ISSUER RECEIVES A WRITTEN DETERMINATION  
27 FROM THE DEPARTMENT THAT THE PRODUCTION FAILS TO QUALIFY FOR THE TAX CREDITS  
28 THE ISSUER WILL PAY TO THE DEPARTMENT THE FULL FACE VALUE OF THE INCOME TAX  
29 CREDITS IN THE APPLICATION. IF THE DEPARTMENT DRAWS ON THE LETTER OF CREDIT,  
30 THE MONIES SHALL BE TRANSFERRED TO AND HELD IN AN INTEREST BEARING ACCOUNT  
31 PENDING THE FINAL OUTCOME OF AN APPEAL, IF ANY. THE LETTER OF CREDIT MAY BE  
32 RELEASED ON THE DEPARTMENT'S DETERMINATION THAT THE COMPLETED PRODUCTION  
33 QUALIFIES FOR THE TAX CREDITS.

34           3. CERTIFY THE TOTAL AMOUNT OF ACTUAL ELIGIBLE PRODUCTION COSTS  
35 ASSOCIATED WITH THE PROJECT.

36           Q. WITHIN NINETY DAYS AFTER THE MOTION PICTURE PRODUCTION COMPANY'S  
37 APPLICATION FOR POSTAPPROVAL, THE DEPARTMENT MUST EITHER:

38           1. PROVIDE POSTAPPROVAL IF THE PRODUCTION COMPANY HAS MET THE  
39 ELIGIBILITY REQUIREMENTS OF THIS SECTION. IF THE AMOUNT OF APPROVED  
40 PRODUCTION COSTS IS LESS THAN THE PREAPPROVED AMOUNT, THE AMOUNT NOT INCLUDED  
41 IN POSTAPPROVAL LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED  
42 BY SUBSECTION J OF THIS SECTION FOR THAT YEAR. ON A DETERMINATION BY THE  
43 DEPARTMENT THAT A MOTION PICTURE PRODUCTION COMPANY QUALIFIES FOR TAX CREDITS  
44 UNDER THIS SECTION, THE DEPARTMENT SHALL ISSUE THE PRODUCTION COMPANY A

1 WRITTEN LETTER OF QUALIFICATION. A LETTER OF QUALIFICATION IS EFFECTIVE FOR  
2 TWENTY-FOUR CONSECUTIVE MONTHS AS STATED IN THE LETTER.

3 2. REQUEST ADDITIONAL INFORMATION NECESSARY FOR A DETERMINATION OF  
4 ELIGIBILITY. IF THE PRODUCTION COMPANY SUPPLIES REQUESTED ADDITIONAL  
5 INFORMATION TO THE DEPARTMENT, THE APPLICATION IS CONSIDERED TO BE APPROVED  
6 IF THE DEPARTMENT FAILS TO TAKE FURTHER ACTION WITHIN THIRTY DAYS. IN ANY  
7 EVENT, ONE HUNDRED TWENTY DAYS AFTER THE PRODUCTION COMPANY'S APPLICATION FOR  
8 POSTAPPROVAL, THE APPLICATION IS CONSIDERED TO BE APPROVED WITH RESPECT TO  
9 ALL AMOUNTS NOT SUBJECT TO THE DEPARTMENT'S REQUEST FOR ADDITIONAL  
10 INFORMATION.

11 3. ISSUE A DENIAL OF POSTAPPROVAL WITH WRITTEN FINDINGS SUPPORTING THE  
12 DENIAL. THE DEPARTMENT SHALL DENY AN APPLICATION FOR POSTAPPROVAL SUBMITTED  
13 ON COMPLETION OF A PRODUCTION IF:

14 (a) THE PRODUCTION COMPANY DOES NOT MEET ALL OF THE ESTABLISHED  
15 CRITERIA PRESCRIBED IN SUBSECTION E OF THIS SECTION.

16 (b) THE DEPARTMENT DETERMINES THAT, REGARDLESS OF THE PRODUCTION  
17 MEDIUM:

18 (i) THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR  
19 OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

20 (ii) THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13,  
21 CHAPTER 35.

22 (iii) THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR  
23 OR COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1.

24 R. IF A PREAPPROVED MOTION PICTURE PRODUCTION COMPANY FAILS TO  
25 UNDERTAKE PRODUCTION AND ALSO FAILS TO VOLUNTARILY RELINQUISH THE UNUSED  
26 CREDIT AMOUNTS FOR REALLOCATION BY THE DEPARTMENT AS PROVIDED BY SUBSECTION K  
27 OF THIS SECTION WITHIN THE NINETY-DAY PERIOD, THE PRODUCTION COMPANY AND ALL  
28 PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL ARE DISQUALIFIED FROM  
29 RECEIVING, OR PARTICIPATING IN ANY MOTION PICTURE PRODUCTION COMPANY THAT  
30 APPLIES FOR OR RECEIVES, TAX CREDITS PURSUANT TO THIS SECTION FOR THREE YEARS  
31 AFTER THE ORIGINAL APPLICATION.

32 S. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING  
33 CORPORATE PARTNERS IN A PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY  
34 COMPANY, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE  
35 CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP  
36 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE MOTION  
37 PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
38 ALLOWED FOR A SOLE OWNER OF THE COMPANY.

39 T. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES  
40 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO  
41 STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT  
42 USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE  
43 SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS  
44 SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT  
45 DETERMINES THAT ANY AMOUNT REFUNDED PURSUANT TO THIS SECTION IS INCORRECT OR

1 INVALID, THE EXCESS CREDIT AMOUNT REFUNDED MAY BE TREATED AS A TAX DEFICIENCY  
2 PURSUANT TO SECTION 42-1108.

3 U. THE DEPARTMENT SHALL:

4 1. ADOPT RULES, FORMS AND PROCEDURES AS NECESSARY TO FACILITATE THE  
5 ORDERLY APPLICATION, EVALUATION AND APPROVAL OF CREDITS UNDER THIS SECTION  
6 AND SECTION 43-1075, AND POST THOSE RULES, FORMS AND PROCEDURES ON THE  
7 DEPARTMENT'S OFFICIAL WEBSITE.

8 2. MAINTAIN ANNUAL DATA AND OTHER INFORMATION ON THE TOTAL AMOUNT OF  
9 MONIES CREDITED PURSUANT TO THIS SECTION.

10 V. A PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE  
11 NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT  
12 INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT  
13 OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR.

14 W. ANY INFORMATION GATHERED FROM MOTION PICTURE PRODUCTION COMPANIES  
15 AND PRIVATELY FUNDED PRODUCTION FACILITIES FOR THE PURPOSES OF THIS SECTION  
16 IS CONSIDERED CONFIDENTIAL TAXPAYER INFORMATION, EXCEPT THAT THE DEPARTMENT  
17 SHALL PUBLISH THE FOLLOWING INFORMATION IN ITS ANNUAL REPORT:

18 1. THE NAME OF EACH MOTION PICTURE PRODUCTION COMPANY AND PRIVATELY  
19 FUNDED PRODUCTION FACILITY, THE NUMBER OF DAYS SHOOTING AND THE NUMBER OF  
20 FULL TIME EQUIVALENT EMPLOYEES, ITEMIZED BY PRODUCTIONS IN PREPRODUCTION,  
21 PRODUCTION AND POSTPRODUCTION STAGE OF ACTIVITY.

22 2. THE AMOUNT OF INCOME TAX CREDITS PREAPPROVED DURING THE TAXABLE  
23 YEAR.

24 3. THE AMOUNT OF CREDITS POSTAPPROVED WITH RESPECT TO EACH PRODUCTION  
25 DURING THE YEAR.

26 X. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE PRODUCTION  
27 EXPENDITURES UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION  
28 43-1163.01 FOR THE SAME COSTS.

29 Y. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR  
30 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL  
31 REVENUE CODE.

32 Z. FOR THE PURPOSES OF THIS SECTION:

33 1. "INFRASTRUCTURE INVESTMENT" MEANS EXPENDITURES FOR SOUNDSTAGES AND  
34 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND  
35 THAT ARE USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE  
36 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES.

37 2. "MOTION PICTURE PRODUCTION COMPANY" OR "PRODUCTION COMPANY" MEANS  
38 ANY PERSON PRIMARILY ENGAGED IN THE BUSINESS OF PRODUCING ENTERTAINMENT  
39 CONTENT CREATED IN WHOLE OR IN PART WITHIN THIS STATE, INCLUDING MOTION  
40 PICTURES, DOCUMENTARIES, LONG-FORM PRODUCTIONS, SPECIALS, SERIES, MINISERIES,  
41 SOUND RECORDINGS, VIDEOS AND MUSIC VIDEOS AND INTERSTITIALS, TELEVISION  
42 PROGRAMMING, INTERACTIVE TELEVISION, INTERACTIVE GAMES, VIDEOGAMES,  
43 COMMERCIALS, INFOMERCIALS, ANY FORMAT OF DIGITAL MEDIA, INCLUDING AN  
44 INTERACTIVE WEBSITE, CREATED FOR DISTRIBUTION OR EXHIBITION TO THE GENERAL  
45 PUBLIC, AND ANY TRAILER, PILOT, VIDEO TEASER OR DEMO CREATED PRIMARILY TO

1 STIMULATE THE SALE, MARKETING, PROMOTION OR EXPLOITATION OF FUTURE INVESTMENT  
2 IN EITHER A PRODUCT OR A QUALIFIED PRODUCTION BY ANY MEANS AND MEDIA IN ANY  
3 DIGITAL FORMAT, FILM OR VIDEOTAPE. PRODUCTION COMPANY DOES NOT INCLUDE ANY  
4 ONGOING TELEVISION PROGRAM CREATED PRIMARILY AS NEWS, WEATHER OR FINANCIAL  
5 MARKET REPORTS, A PRODUCTION FEATURING CURRENT EVENTS, SPORTING EVENTS AND  
6 AWARDS SHOW OR OTHER GALA EVENT, A PRODUCTION WHOSE SOLE PURPOSE IS  
7 FUND-RAISING A PRODUCTION USED FOR CORPORATE TRAINING OR IN-HOUSE CORPORATE  
8 ADVERTISING OR OTHER SIMILAR PRODUCTIONS FOR WHICH RECORDS ARE REQUIRED TO BE  
9 MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

10 3. "PRIVATELY FUNDED PRODUCTION FACILITY" OR "PRODUCTION FACILITY"  
11 MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR MORE SETS OR STAGES USED:

12 (a) BY ANY PRODUCTION COMPANY OR COMPANIES AND ANY LAND, PERMANENT  
13 BUILDINGS AND CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
14 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
15 COMPLEMENT PRODUCTION NEEDS.

16 (b) FOR STAGING AND FILMING BY A PRODUCTION COMPANY AND ANY LAND,  
17 PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS  
18 NECESSARY FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES  
19 USED TO COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND COMPLEMENT THE MOTION  
20 PICTURE PRODUCTION.

21 4. "QUALIFIED PRODUCTION EXPENDITURE" MEANS THE FOLLOWING EXPENDITURES  
22 DIRECTLY RELATED TO A PRODUCTION BY A PRODUCTION COMPANY:

23 (a) THE WAGES PAID TO RESIDENTS OF THIS STATE FOR WORK PERFORMED IN  
24 THIS STATE.

25 (b) FEES AND OTHER CHARGES FOR ATTORNEYS, ACCOUNTANTS AND OTHER  
26 PROFESSIONAL SERVICES THAT MAY BE LAWFULLY RENDERED ONLY BY A PERSON LICENSED  
27 OR OTHERWISE AUTHORIZED BY A LICENSING AUTHORITY IN THIS STATE TO RENDER THE  
28 SERVICE.

29 (c) MATERIAL PURCHASED FROM A VENDOR LOCATED IN THIS STATE FOR  
30 CONSTRUCTION OF SETS, SPECIAL EFFECTS AND OTHER PURPOSES.

31 (d) EQUIPMENT RENTED OR LEASED FROM A VENDOR LOCATED IN THIS STATE.

32 (e) EQUIPMENT ACQUIRED OR OTHERWISE PURCHASED FROM A VENDOR LOCATED IN  
33 THIS STATE.

34 (f) FACILITIES LEASED FROM A LESSEE LOCATED IN THIS STATE FOR  
35 PREPRODUCTION, PRODUCTION AND POSTPRODUCTION IN THIS STATE.

36 (g) HOTEL AND LODGING IN THIS STATE.

37 (h) FOOD EXPENSES, INCLUDING CATERING, PURCHASED IN THIS STATE.

38 (i) LOCATION FEES IN THIS STATE.

39 (j) POSTPRODUCTION EXPENSES IN THIS STATE.

40 (k) FUEL PURCHASED IN THIS STATE.

41 (l) VEHICLES RENTED IN THIS STATE.

42 5. "RESIDENT" MEANS AN INDIVIDUAL WHO HAS BEEN DOMICILED IN THIS STATE  
43 FOR AT LEAST NINETY DAYS OR WHO IS OTHERWISE IN THIS STATE FOR OTHER THAN A  
44 TEMPORARY OR TRANSITORY PURPOSE. EVIDENCE OF RESIDENCY INCLUDES AT LEAST ONE  
45 OF THE FOLLOWING: CURRENT OWNERSHIP OF RESIDENTIAL PROPERTY, DRIVER LICENSE,

1 NONOPERATING IDENTIFICATION LICENSE, MOTOR VEHICLE REGISTRATION, VOTER  
2 REGISTRATION, STATE TAX RECORDS IN THIS STATE AND IN-STATE STUDENT  
3 CLASSIFICATION UNDER TITLE 15, CHAPTER 14, ARTICLE 1.

4 6. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR  
5 MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION  
6 COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR  
7 ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

8 7. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN  
9 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND  
10 COMPLEMENT THE PRODUCTION PROCESS.

11 8. "TELEVISION SERIES" MEANS A RECURRING OR EPISODIC PRODUCTION  
12 INTENDED IN ITS INITIAL RUN FOR BROADCAST ON FREE OR SUBSCRIPTION TELEVISION  
13 SERVICE THAT HAS A RUNNING TIME OF AT LEAST THIRTY MINUTES IN LENGTH,  
14 INCLUDING COMMERCIAL ADVERTISEMENT AND INTERSTITIAL PROGRAMMING. TELEVISION  
15 SERIES DOES NOT INCLUDE A PILOT PRODUCTION FOR THE PROMOTION OR INTRODUCTION  
16 OF A TELEVISION SERIES.

17 Sec. 5. Section 43-1163.01, Arizona Revised Statutes, is amended to  
18 read:

19 43-1163.01. Credit for motion picture infrastructure projects;  
20 definition

21 A. THROUGH DECEMBER 31, 2040, a credit is allowed against the taxes  
22 imposed by this title for investments in motion picture infrastructure  
23 projects in this state ~~as provided by section 41-1517.01~~. The amount of the  
24 credit is fifteen per cent of the total base investment in the project during  
25 the taxable year as approved and reported by the department ~~of commerce~~  
26 ~~pursuant to section 41-1517.01, subsection F~~ PURSUANT TO THIS SECTION. The  
27 taxpayer may apply the credit against income taxes for the taxable year in  
28 which the motion picture infrastructure project is completed ~~as provided by~~  
29 ~~section 41-1517.01, subsection F~~.

30 B. The department shall not allow:

31 1. Tax credits IN A TOTAL AMOUNT EXCEEDING TEN MILLION DOLLARS for any  
32 taxable year under this section and section 43-1075.01 ~~that would violate the~~  
33 ~~aggregate limits prescribed by section 41-1517.01, subsection C~~.

34 2. A tax credit under this section to a taxpayer that has a delinquent  
35 tax balance owing to the department under this title or title 42.

36 C. An applicant, at its expense, may voluntarily enter into a limited  
37 managed audit agreement pursuant to title 42, chapter 2, article 7 that  
38 includes an audit of its base investment and other requirements prescribed ~~by~~  
39 ~~section 41-1517.01 and~~ by this section to confirm the amount of any credit  
40 under this section. The request to enter into the audit must be made after  
41 the applicant receives approval for the credit ~~pursuant to section~~  
42 ~~41-1517.01, subsection F~~. The audit must be conducted by the applicant's  
43 authorized representative, as defined in section 42-2301, who is an  
44 independent certified public accountant licensed in this state. The  
45 certified public accountant and the firm the certified public accountant is

1 affiliated with shall not regularly perform services for the taxpayer or its  
2 affiliates. If the director accepts the findings of the audit and issues a  
3 notice of determination pursuant to section 42-2303 and the taxpayer timely  
4 files its income tax return with the appropriate credit claim forms, the  
5 credit amount accepted is not subject to recapture, disallowance, reduction  
6 or denial with respect to either the taxpayer or any subsequent transferee of  
7 the credit, ~~and subsection F, paragraph 4 of this section does not apply.~~  
8 The director's notice of determination shall include a written certificate to  
9 the taxpayer stating the amount of the credit and that the credit is not  
10 subject to recapture from a transferee. This subsection does not prevent the  
11 recapture of a credit if the taxpayer failed to disclose material information  
12 during the audit or falsified its books or records or otherwise engaged in an  
13 action that prevented an accurate audit.

14 D. Co-owners of a business, including corporate partners in a  
15 partnership and members of a limited liability company, may allocate the  
16 credit allowed under this section among the co-owners on any basis without  
17 regard to their proportional ownership interest. The total of the credits  
18 allowed all such owners may not exceed the amount that would have been  
19 allowed for a sole owner of the company.

20 E. If the allowable tax credit for a taxpayer exceeds the taxes  
21 otherwise due under this title on the claimant's income, or if there are no  
22 taxes due under this title, the taxpayer may carry the amount of the claim  
23 not used to offset the taxes under this title forward for not more than five  
24 consecutive taxable years' income tax liability.

25 ~~F. All or part of any unclaimed amount of credit under this section  
26 may be sold or otherwise transferred under the following conditions:~~

27 ~~1. A single sale or transfer may involve one or more transferees, and  
28 a transferee may in turn resell or transfer the credit subject to the same  
29 conditions of this subsection.~~

30 ~~2. Both the transferor and transferee must submit a written notice of  
31 the transfer to the department within thirty days after the sale or transfer.  
32 The transferee's notice shall include a processing fee equal to one per cent  
33 of the transferee's tax credit balance or two hundred dollars, whichever is  
34 less. The notice shall include:~~

35 ~~(a) The name of the taxpayer.~~

36 ~~(b) The date of the transfer.~~

37 ~~(c) The amount of the transfer.~~

38 ~~(d) The transferor's tax credit balance before the transfer and the  
39 remaining balance after the transfer.~~

40 ~~(e) All tax identification numbers for both transferor and transferee.~~

41 ~~(f) Any other information required by rule.~~

42 ~~3. A sale or transfer of the credit does not extend the time in which  
43 the credit can be used. The carryforward period of time under subsection E  
44 of this section for a credit that is sold or transferred begins on the date  
45 the credit was originally earned.~~



1 multimedia production in this state that qualified for income tax credits  
2 under sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by  
3 this act.

4 Sec. 7. Effect on preexisting tax credits

5 This act does not affect the validity of income tax credits granted  
6 under prior law. Taxpayers, including transferees, who qualified for credits  
7 under sections 41-1517, 41-1517.01, 43-1075, 43-1075.01, 43-1163 and  
8 43-1163.01, Arizona Revised Statutes, in effect before the effective date of  
9 this act, may use any applicable amounts of those credits, including allowed  
10 carryovers, against income tax liabilities for subsequent taxable years as  
11 provided by law in effect before the effective date of this act.

12 Sec. 8. Purpose

13 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
14 enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by  
15 this act, to encourage development in this state of a strong capital and  
16 infrastructure base for motion picture production and related activity to  
17 achieve an independent, self-supporting industry. This objective is divided  
18 into immediate and long-term objectives as follows:

19 1. Attract private investment for the production of motion pictures in  
20 this state.

21 2. Develop a tax and capital infrastructure that encourages private  
22 development but not requiring any company to use the infrastructure for  
23 purposes of the tax incentives.

24 3. Develop a system using income tax credits to encourage investments  
25 in a qualified production facilities.

26 4. Create high quality employment opportunities within this sector,  
27 and increase this state's global competitiveness by fully using economic  
28 development tools within the motion picture and digital media industry.

29 5. Encourage spin-off development such as educational programs to  
30 provide a labor force trained in all aspects of film and digital production.

31 Sec. 9. Retroactivity

32 Sections 2 through 5 of this act apply retroactively to taxable years  
33 beginning from and after December 31, 2010.

34 Sec. 10. Emergency

35 This act is an emergency measure that is necessary to preserve the  
36 public peace, health or safety and is operative immediately as provided by  
37 law.