



Bill Number: S.B. 1409

Nelson Floor Amendment

Reference to: printed bill

Amendment drafted by: Dave Thomas – Leg Council

FLOOR AMENDMENT EXPLANATION

- Lowers the cap on the amount of credit allowed per company/per production from \$20 million to \$15 million.
- Caps the amount of credit available each year at \$70 million.
 - \$4 million of the cap is reserved for commercials and \$10 million is reserved for infrastructure.
- Specifies that the amount of credit available is the following:
 - 20 percent if the amount of qualified production expenditures (QPE) is \$1 million or greater.
 - 17.5 percent if the amount of QPE is between \$250,000 - \$1 million.
 - An extra 5 percent if the production company uses a privately funded production facility (PFPF) with a \$50 million investment for at least 50 percent of its production.
- Continues the existing corporate and individual income tax credits for infrastructure investment which are currently set to expire at the end of TY 2010.
 - The amount of credit will be 15 percent of the total base investment (unchanged from current law).
 - \$10 million of the \$70 million aggregate cap is reserved for the infrastructure investment tax credits.
- Contains requirements for commercial advertisements and music video productions.

Amendment explanation prepared by Barbara Barzee

3/31/2010

The following provisions were included in the CED amendment and are now included in this amendment.

- Increases the amount of qualified production expenditures a company must have in order to qualify for the credit from \$100,000 to \$250,000.
- Requires a company to employ at least 25 percent of its FTE positions in Arizona.
- Removes the application requirements with the Department of Revenue (DOR).
- Removes the requirement that a company produce 50% of all principal photography and postproduction outside of Arizona.
- Requires, rather than allows, the production company to enter into a limited managed audit agreement that includes an audit of its production costs in order to confirm the amount of credit.
- Requires, rather than allows, the PFPF to certify the value of its infrastructure through a limited managed audit agreement.
- Requires a PFPF to maintain data on the number of productions using its facility each year and report that information to the Speaker and the President.
- Contains definitions for *soundstage*, *support and augmentation facilities*, and *infrastructure investment*.

NELSON FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1409
(Reference to printed bill)

1 Page 1, strike lines 14 through 28

2 Reletter to conform

3 Line 31, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

4 Strike lines 33 through 37

5 Renumber to conform

6 Strike lines 40 through 46, insert:

7 "3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE
8 COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS
9 FULL-TIME EMPLOYMENT POSITIONS IN THIS STATE.

10 4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT
11 PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS
12 PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM
13 THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY
14 THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO
15 IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
16 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
17 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION
18 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT
19 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE
20 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM
21 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,
22 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S
23 NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER
24 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO
25 RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A
26 PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION

1 DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN
2 ACTION THAT PREVENTED AN ACCURATE AUDIT.

3 C. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION
4 IS:

5 1. SEVENTEEN AND ONE-HALF PER CENT OF QUALIFIED PRODUCTION
6 EXPENDITURES OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT MORE
7 THAN ONE MILLION DOLLARS.

8 2. TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES EXCEEDING ONE
9 MILLION DOLLARS.

10 3. AN ADDITIONAL FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES IF
11 THE PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A
12 CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE
13 TIME OF APPLICATION TO THE DEPARTMENT FOR AT LEAST FIFTY PER CENT OF THE
14 PRODUCTION."

15 Reletter to conform

16 Page 2, strike lines 1 through 15

17 Line 19, strike "MAY VOLUNTARILY" insert "SHALL"

18 Strike lines 33 through 37

19 Reletter to conform

20 Line 41, strike the blank insert "FIFTEEN MILLION DOLLARS"

21 Strike lines 43 through 46

22 Page 3, strike lines 1 through 19, insert:

23 "G. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE
24 PURPOSES OF THIS SECTION AND SECTION 43-1163 THAT EXCEED A TOTAL OF SEVENTY
25 MILLION DOLLARS FOR A SINGLE YEAR, EXCEPT THAT OF THE AMOUNT:

26 1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF
27 INFRASTRUCTURE CREDITS PURSUANT TO SECTION 43-1075.01 AND 43-1163.01.

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

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

1 1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY
2 APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE COMPANY REACHES THE
3 MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION B OF THIS SECTION.

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

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

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

9 (c) DESCRIBES THE LOCATION OR LOCATIONS.

10 (d) DESCRIBES THE SETS.

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

13 3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN
14 BUSINESS DAYS.

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

17 5. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES
18 BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE COMPANY FILES
19 ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES
20 IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION 43-1163.

21 6. WITHIN SIXTY DAYS AFTER APPLYING WITH THE DEPARTMENT UNDER
22 SUBSECTION ___ OF THIS SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC
23 PRODUCTION MUST NOTIFY AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE
24 DEPARTMENT OF THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH
25 THE PRODUCTION.

26 7. THE COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE COMPANY'S
27 ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY THOUSAND DOLLARS IN
28 A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY REACHES THAT
29 THRESHOLD, THE COMPANY MAY APPLY TO THE DEPARTMENT FOR APPROVAL OF THE CREDIT
30 PURSUANT TO SUBSECTION ___ OF THIS SECTION. APPLICATIONS FOR APPROVAL OF
31 CREDITS MAY NOT BE SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A
32 CALENDAR MONTH.

1 8. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT
2 SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
3 FOR THE PURPOSES OF THIS SUBSECTION.

4 I. THE DEPARTMENT SHALL DENY AN APPLICATION SUBMITTED ON COMPLETION OF
5 A PRODUCTION IF IT DETERMINES THAT:

6 1. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR
7 OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

8 2. THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13,
9 CHAPTER 35.

10 3. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR
11 COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1."

12 Reletter to conform

13 Page 3, line 34, after "DATA" insert "AND OTHER INFORMATION"

14 Line 35, after "SECTION" insert a period strike remainder of line

15 Strike lines 36 through 41, insert:

16 "M. A CERTIFIED PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN
17 DATA ON THE NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT
18 THAT INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
19 PRESIDENT OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

20 Reletter to conform

21 Page 4, between lines 3 and 4, insert:

22 "P. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
23 THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED
24 AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

25 Reletter to conform

26 Between lines 4 and 5, insert:

27 "1. 'INFRASTRUCTURE INVESTMENT' MEANS EXPENDITURES FOR SOUNDSTAGES AND
28 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND
29 PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE
30 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

31 Renumber to conform

32 Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

1 Page 4, line 37, strike "TEN PER CENT OF" insert "THE"

2 Line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

3 Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

4 Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

5 Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

6 Page 5, between lines 4 and 5, insert:

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

11 6. 'SUPPORT AND AUGMENTATION FACILITIES' MEANS PERMANENT FACILITIES IN
12 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND
13 COMPLEMENT THE PRODUCTION PROCESS.

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

16 43-1075.01. Credit for motion picture infrastructure projects:
17 definition

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

27 B. The department shall not allow:

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

31 2. A tax credit under this section to a taxpayer who has a delinquent
32 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

1 taxes due under this title, the taxpayer may carry the amount of the claim
2 not used to offset the taxes under this title forward for not more than five
3 consecutive taxable years' income tax liability.

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

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

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

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

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

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

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

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

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

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

25 ~~4. Except as provided by subsection C of this section, if a transferor
26 was not qualified or was disqualified from using the credit at the time of
27 the transfer, the department shall either disallow the credit claimed by a
28 transferee or recapture the credit from the transferee through any authorized
29 collection method. The transferee's recourse is against the transferor.~~

30 ~~5. In the case of any failure to comply with this subsection, the
31 department shall disallow the tax credit until the taxpayer is in full
32 compliance.~~

1 ~~G.~~ F. The department of revenue shall maintain annual data on the
2 total amount of monies credited pursuant to this section, ~~and shall provide~~
3 ~~that data to the department of commerce on request.~~

4 ~~H.~~ G. The department of revenue, ~~with the cooperation of the~~
5 ~~department of commerce,~~ shall adopt rules and publish and prescribe forms and
6 procedures as necessary to effectuate the purposes of this section.

7 ~~I.~~ H. A taxpayer who claims a credit for motion picture
8 infrastructure projects under this section shall not claim a credit under
9 section 43-1075 for the same costs.

10 ~~J.~~ I. The credit allowed by this section is in lieu of any allowance
11 for state tax purposes of a deduction of those expenses allowed by the
12 internal revenue code.

13 ~~K.~~ J. For the purposes of this section, "motion picture
14 infrastructure project" ~~has the same meaning prescribed in section~~
15 ~~41-1517.01.:~~

16 (a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE
17 CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.

18 (b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL
19 EXHIBITION FACILITIES."

20 Renumber to conform

21 Page 5, strike lines 15 through 29

22 Reletter to conform

23 Line 32, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

24 Strike lines 34 through 38

25 Renumber to conform

26 Strike lines 41 through 44, insert:

27 "3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE
28 COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS
29 FULL-TIME EMPLOYMENT POSITIONS IN THIS STATE.

30 4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT
31 PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS
32 PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM

1 THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY
2 THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO
3 IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
4 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
5 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION
6 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT
7 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE
8 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM
9 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,
10 REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S
11 NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER
12 STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO
13 RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A
14 PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION
15 DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN
16 ACTION THAT PREVENTED AN ACCURATE AUDIT.

17 C. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION
18 IS:

19 1. SEVENTEEN AND ONE-HALF PER CENT OF QUALIFIED PRODUCTION
20 EXPENDITURES OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT MORE
21 THAN ONE MILLION DOLLARS.

22 2. TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES EXCEEDING ONE
23 MILLION DOLLARS.

24 3. AN ADDITIONAL FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES IF
25 THE PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A
26 CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE
27 TIME OF APPLICATION TO THE DEPARTMENT FOR AT LEAST FIFTY PER CENT OF THE
28 PRODUCTION."

29 Reletter to conform

30 Page 6, strike lines 1 through 18

31 Line 22, strike "MAY VOLUNTARILY" insert "SHALL"

32 Strike lines 36 through 40

1 Reletter to conform

2 Page 6, line 44, strike the blank insert "FIFTEEN MILLION DOLLARS"

3 Page 7, strike lines 1 through 23, insert:

4 "G. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE
5 PURPOSES OF THIS SECTION AND SECTION 43-1075 THAT EXCEED A TOTAL OF SEVENTY
6 MILLION DOLLARS FOR A SINGLE YEAR, EXCEPT THAT OF THE AMOUNT:

7 1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF
8 INFRASTRUCTURE CREDITS PURSUANT TO SECTION 43-1075.01 AND 43-1163.01.

9 2. FOUR MILLION DOLLARS IS RESERVED FOR THE PURPOSES OF COMMERCIAL
10 ADVERTISEMENTS AND MUSIC VIDEO PRODUCTION PURSUANT TO SUBSECTION H OF THIS
11 SECTION AND SECTION 43-1075, SUBSECTION H.

12 H. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL
13 ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

14 1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY
15 APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE COMPANY REACHES THE
16 MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION B OF THIS SECTION.

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

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

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

22 (c) DESCRIBES THE LOCATION OR LOCATIONS.

23 (d) DESCRIBES THE SETS.

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

26 3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN
27 BUSINESS DAYS.

28 4. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED
29 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 COMPANY FILES
3 ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES
4 IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION 43-1075.

5 6. WITHIN SIXTY DAYS AFTER APPLYING WITH THE DEPARTMENT UNDER
6 SUBSECTION __ OF THIS SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC
7 PRODUCTION MUST NOTIFY AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE
8 DEPARTMENT OF THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH
9 THE PRODUCTION.

10 7. THE COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE COMPANY'S
11 ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY THOUSAND DOLLARS IN
12 A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY REACHES THAT
13 THRESHOLD, THE COMPANY MAY APPLY TO THE DEPARTMENT FOR APPROVAL OF THE CREDIT
14 PURSUANT TO SUBSECTION __ OF THIS SECTION. APPLICATIONS FOR APPROVAL OF
15 CREDITS MAY NOT BE SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A
16 CALENDAR MONTH.

17 8. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT
18 SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
19 FOR THE PURPOSES OF THIS SUBSECTION.

20 I. THE DEPARTMENT SHALL DENY AN APPLICATION SUBMITTED ON COMPLETION OF
21 A PRODUCTION IF IT DETERMINES THAT:

22 1. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR
23 OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

24 2. THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13,
25 CHAPTER 35.

26 3. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR
27 COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1."

28 Reletter to conform

29 Page 7, line 36, after "DATA" insert "AND OTHER INFORMATION"

30 Line 37, after "SECTION" insert a period strike remainder of line

31 Strike lines 38 through 43, insert:

1 "M. A CERTIFIED PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN
2 DATA ON THE NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT
3 THAT INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
4 PRESIDENT OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

5 Reletter to conform

6 Page 8, between lines 3 and 4, insert:

7 "P. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO
8 THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED
9 AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

10 Reletter to conform

11 Between lines 4 and 5, insert:

12 "1. 'INFRASTRUCTURE INVESTMENT' MEANS EXPENDITURES FOR SOUNDSTAGES AND
13 SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND
14 PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE
15 THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

16 Renumber to conform

17 Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

18 Line 37, strike "TEN PER CENT OF" insert "THE"

19 Line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

20 Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

21 Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

22 Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

23 Page 9, between lines 4 and 5, insert:

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

28 6. 'SUPPORT AND AUGMENTATION FACILITIES' MEANS PERMANENT FACILITIES IN
29 THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND
30 COMPLEMENT THE PRODUCTION PROCESS.

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

3 43-1163.01. Credit for motion picture infrastructure projects;
4 definition

5 A. A credit is allowed against the taxes imposed by this title for
6 investments in motion picture infrastructure projects in this state ~~as~~
7 ~~provided by section 41-1517.01~~. The amount of the credit is fifteen per cent
8 of the total base investment in the project during the taxable year as
9 approved and reported by the department ~~of commerce pursuant to section~~
10 ~~41-1517.01, subsection F~~ PURSUANT TO THIS SECTION. The taxpayer may apply
11 the credit against income taxes for the taxable year in which the motion
12 picture infrastructure project is completed ~~as provided by section~~
13 ~~41-1517.01, subsection F~~.

14 B. The department shall not allow:

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

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

20 C. An applicant, at its expense, may voluntarily enter into a limited
21 managed audit agreement pursuant to title 42, chapter 2, article 7 that
22 includes an audit of its base investment and other requirements prescribed ~~by~~
23 ~~section 41-1517.01 and~~ by this section to confirm the amount of any credit
24 under this section. The request to enter into the audit must be made after
25 the applicant receives approval for the credit ~~pursuant to section~~
26 ~~41-1517.01, subsection F~~. The audit must be conducted by the applicant's
27 authorized representative, as defined in section 42-2301, who is an
28 independent certified public accountant licensed in this state. The
29 certified public accountant and the firm the certified public accountant is
30 affiliated with shall not regularly perform services for the taxpayer or its
31 affiliates. If the director accepts the findings of the audit and issues a
32 notice of determination pursuant to section 42-2303 and the taxpayer timely

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

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~4. Except as provided by subsection C of this section, if a transferor~~
12 ~~was not qualified or was disqualified from using the credit at the time of~~
13 ~~the transfer, the department shall either disallow the credit claimed by a~~
14 ~~transferee or recapture the credit from the transferee through any authorized~~
15 ~~collection method. The transferee's recourse is against the transferor.~~

16 ~~5. In the case of any failure to comply with this subsection, the~~
17 ~~department shall disallow the tax credit until the taxpayer is in full~~
18 ~~compliance.~~

19 ~~G. F.~~ F. The department of revenue shall maintain annual data on the
20 total amount of monies credited pursuant to this section, ~~and shall provide~~
21 ~~that data to the department of commerce on request.~~

22 ~~H. G.~~ G. The department of revenue, ~~with the cooperation of the~~
23 ~~department of commerce,~~ shall adopt rules and publish and prescribe forms and
24 procedures as necessary to effectuate the purposes of this section.

25 ~~I. H.~~ H. A taxpayer that claims a credit for motion picture
26 infrastructure projects under this section shall not claim a credit under
27 section 43-1163 for the same costs.

28 ~~J. I.~~ I. The credit allowed by this section is in lieu of any allowance
29 for state tax purposes of a deduction of those expenses allowed by the
30 internal revenue code.

1 ~~K.~~ J. For the purposes of this section, "motion picture
2 infrastructure project" ~~has the same meaning prescribed in section~~
3 ~~41-1517.01.:~~

4 (a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE
5 CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.

6 (b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL
7 EXHIBITION FACILITIES."

8 Re-number to conform

9 Page 9, line 23, after "development" insert "but not requiring any company to use
10 the infrastructure for purposes of the tax incentives"

11 Amend title to conform

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