

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0461.01 Esther van Mourik

HOUSE BILL 09-1010

HOUSE SPONSORSHIP

Massey and McGihon,

SENATE SPONSORSHIP

Gibbs and Spence,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROMOTION OF COLORADO AS A LOCATION FOR**
102 **FILM PRODUCTION ACTIVITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the Colorado office of film, television, and media (office) within the Colorado office of economic development. Specifies that the office shall have a director and a staff to fulfill the mission of the office. Establishes the duties of the office.

Creates the Colorado office of film, television, and media operational account cash fund, and specifies the purpose of the fund.

For income tax years commencing on or after January 1, 2009, but

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

prior to January 1, 2014, establishes the Colorado film production tax credit. Specifies that the office will allocate the credits by issuing credit certificates to production companies that produce films in Colorado. Specifies the maximum value of the credit. Limits the aggregate sum of credits allocated on an annual basis to a specified amount. Allows the credit to be carried forward to other income tax years for a maximum of 3 years. Establishes the transferability of the credit. Grants the department of revenue rule-making authority.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 48.5 of title 24, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW PART to read:

4 **PART 2**

5 **COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA**

6 **24-48.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "FILM" MEANS ANY VISUAL OR AUDIOVISUAL WORK,
9 INCLUDING, WITHOUT LIMITATION, A VIDEO GAME, THAT CONTAINS A
10 SERIES OF RELATED IMAGES, REGARDLESS OF THE MEDIUM BY WHICH THE
11 WORK IS FIXED AND FROM WHICH IT CAN BE VIEWED OR REPRODUCED, AND
12 THAT IS PRIMARILY INTENDED TO BE EITHER:

13 (a) COMMERCIALY EXPLOITED BY BEING SHOWN IN THEATERS,
14 LICENSED FOR TELEVISION EXHIBITION, LICENSED FOR THE HOME MARKET,
15 OR OTHERWISE; OR

16 (b) FOR INTERNAL INDUSTRIAL, CORPORATE, OR INSTITUTIONAL
17 USE.

18 (2) "OFFICE" MEANS THE COLORADO OFFICE OF FILM, TELEVISION,
19 AND MEDIA CREATED PURSUANT TO SECTION 24-48.5-202.

20 (3) "PRODUCTION ACTIVITIES" MEANS THE SHOOTING OF A FILM,
21 SUPPORT ACTIVITIES RELATED TO SUCH SHOOTING, AND ANY PRESHOOTING

1 OR POSTSHOOTING ACTIVITIES THAT COMMENCE ON OR AFTER JULY 1,
2 2009, AND THAT ARE NECESSARY TO PRODUCE A FINISHED FILM,
3 INCLUDING BUT NOT LIMITED TO EDITING AND THE CREATION OF SETS,
4 PROPS, COSTUMES, AND SPECIAL EFFECTS.

5 (4) "PRODUCTION COMPANY" MEANS A PERSON, INCLUDING A
6 CORPORATION OR OTHER BUSINESS ENTITY, THAT ENGAGES IN
7 PRODUCTION ACTIVITIES FOR THE PURPOSE OF PRODUCING ALL OR ANY
8 PORTION OF A FILM IN COLORADO.

9 (5) "QUALIFIED LOCAL EXPENDITURE" MEANS A PAYMENT MADE
10 BY A PRODUCTION COMPANY OPERATING IN COLORADO TO A BUSINESS IN
11 COLORADO IN CONNECTION WITH THE PRODUCTION OF A FILM THAT THE
12 PRODUCTION COMPANY IS PRODUCING IN COLORADO. "QUALIFIED LOCAL
13 EXPENDITURE" SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

14 (a) PAYMENTS MADE IN CONNECTION WITH DEVELOPING OR
15 PURCHASING THE STORY AND SCENARIO TO BE USED FOR A FILM;

16 (b) PAYMENTS MADE FOR THE COSTS OF SET CONSTRUCTION AND
17 OPERATIONS, WARDROBE, ACCESSORIES, AND RELATED SERVICES;

18 (c) PAYMENTS MADE FOR THE COSTS OF PHOTOGRAPHY, SOUND
19 SYNCHRONIZATION, LIGHTING, AND RELATED SERVICES;

20 (d) PAYMENTS MADE FOR THE COSTS OF EDITING,
21 POST-PRODUCTION, MUSIC, AND RELATED SERVICES;

22 (e) PAYMENTS MADE FOR THE COSTS OF RENTING FACILITIES AND
23 EQUIPMENT, INCLUDING LOCATION FEES, LEASING VEHICLES, AND
24 PROVIDING FOOD AND LODGING TO PEOPLE WORKING ON THE FILM
25 PRODUCTION;

26 (f) PAYMENTS FOR AIRFARE PURCHASED THROUGH A
27 COLORADO-BASED TRAVEL AGENCY OR COMPANY;

1 (g) PAYMENTS FOR INSURANCE AND BONDING PURCHASED
2 THROUGH A COLORADO-BASED INSURANCE AGENT; AND

3 (h) PAYMENTS FOR OTHER DIRECT COSTS INCURRED BY THE FILM
4 PRODUCTION COMPANY THAT ARE DEEMED APPROPRIATE BY THE OFFICE.

5 (6) "QUALIFIED PAYROLL EXPENDITURE" MEANS AN EXPENDITURE
6 OF UP TO THREE MILLION DOLLARS PER EMPLOYEE OR CONTRACTOR, MADE
7 BY A PRODUCTION COMPANY TO PAY THE SALARIES OF ACTORS,
8 MANAGEMENT, AND CREW, WHO PARTICIPATE IN THE FILM PRODUCTION
9 ACTIVITIES. IN ORDER FOR ANY SALARY TO BE CONSIDERED A QUALIFIED
10 PAYROLL EXPENDITURE, ALL COLORADO INCOME TAXES SHALL BE
11 WITHHELD AND PAID EITHER BY THE PRODUCTION COMPANY OR THE
12 INDIVIDUAL. ANY EXPENDITURES IN EXCESS OF THREE MILLION DOLLARS
13 PER EMPLOYEE OR CONTRACTOR SHALL BE EXCLUDED.

14 **24-48.5-202. Colorado office of film, television, and media -**
15 **creation.** (1) THERE IS HEREBY CREATED WITHIN THE COLORADO OFFICE
16 OF ECONOMIC DEVELOPMENT THE COLORADO OFFICE OF FILM, TELEVISION,
17 AND MEDIA, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE
18 COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA. THE DIRECTOR OF
19 THE OFFICE SHALL BE ASSISTED BY A DEPUTY DIRECTOR, IF DEEMED
20 NECESSARY BY THE DIRECTOR, AND A STAFF TO FULFILL THE OFFICE'S
21 MISSION TO PROMOTE COLORADO AS A LOCATION FOR MAKING FEATURE
22 FILMS, TELEVISION SHOWS, TELEVISION COMMERCIALS, STILL
23 PHOTOGRAPHY, MUSIC VIDEOS, AND EMERGING MASS MEDIA PROJECTS.

24 (2) THE OFFICE SHALL:

25 (a) MARKET COLORADO AS A DESTINATION FOR MAKING FEATURE
26 FILMS, TELEVISION SHOWS, TELEVISION COMMERCIALS, STILL
27 PHOTOGRAPHY, MUSIC VIDEOS, AND NEW MEDIA PROJECTS;

1 (b) ASSIST PRODUCTION COMPANIES THAT ARE INTERESTED IN
2 CONDUCTING PRODUCTION ACTIVITIES IN COLORADO IN SCOUTING
3 APPROPRIATE LOCATIONS IN THE STATE FOR THE PRODUCTION COMPANY'S
4 FILM;

5 (c) ASSIST STATE AND LOCAL GOVERNMENT AGENCIES AND
6 ORGANIZATIONS IN THE CREATION OF PERMITTING CRITERIA FOR
7 PRODUCTION COMPANIES THAT PLAN TO CONDUCT PRODUCTION
8 ACTIVITIES ON STATE OR LOCAL GOVERNMENT PROPERTY;

9 (d) ASSIST PRODUCTION COMPANIES IN DETERMINING THE
10 APPROPRIATE STATE OR LOCAL GOVERNMENT AGENCIES TO CONTACT TO
11 APPLY FOR A PERMIT TO CONDUCT PRODUCTION ACTIVITIES ON STATE OR
12 LOCAL GOVERNMENT PROPERTY;

13 (e) SERVE AS A GENERAL LIAISON FOR PRODUCTION COMPANIES
14 AND ASSIST IN COORDINATION EFFORTS AMONG PRODUCTION COMPANIES,
15 ANY STATE OR LOCAL GOVERNMENT AGENCY, AND LOCAL BUSINESSES AND
16 INDIVIDUALS BEFORE, DURING, AND AFTER THE PRODUCTION COMPANY
17 CONDUCTS PRODUCTION ACTIVITIES IN COLORADO;

18 (f) SERVE AS A RESOURCE FOR LOCAL GOVERNMENTS AND
19 COMMUNITIES AROUND COLORADO WHEN A PRODUCTION COMPANY
20 APPROACHES THE LOCAL GOVERNMENT OR COMMUNITY REGARDING THE
21 POSSIBILITY OF CONDUCTING PRODUCTION ACTIVITIES ON THE PROPERTY OF
22 THE LOCAL GOVERNMENT OR WITHIN THE COMMUNITY;

23 (g) ISSUE CREDIT CERTIFICATES AND ADMINISTER THE COLORADO
24 FILM PRODUCTION TAX CREDIT AS SPECIFIED IN SECTION 39-22-531 (2),
25 C.R.S. THE OFFICE MAY DEVELOP PROCEDURES FOR THE ADMINISTRATION
26 OF THE CREDIT, INCLUDING APPLICATION GUIDELINES FOR PRODUCTION
27 COMPANIES APPLYING TO RECEIVE THE CREDIT.

1 (h) CONDUCT EDUCATIONAL SEMINARS TO PROMOTE THE FILM
2 INDUSTRY AND PEOPLE WORKING IN THE FILM INDUSTRY IN COLORADO;
3 AND

4 (i) PERFORM ANY OTHER DUTIES IN FURTHERANCE OF THE OFFICE'S
5 MISSION AS DEEMED NECESSARY BY THE DIRECTOR OF THE OFFICE AND THE
6 GOVERNOR.

7 **24-48.5-203. Colorado office of film, television, and media**
8 **operational account cash fund - creation - repeal.** (1) THERE IS
9 HEREBY CREATED IN THE STATE TREASURY THE COLORADO OFFICE OF
10 FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND,
11 REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST
12 OF:

13 (a) (I) MONEYS TRANSFERRED TO THE FUND AS SPECIFIED IN
14 SECTION 24-46-105.8 (4) (a).

15 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1,
16 2010.

17 (b) MONEYS TRANSFERRED TO THE FUND IN ACCORDANCE WITH
18 SECTION 12-47.1-701 (4) (a) (V) (A), C.R.S.;

19 (c) ANY GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC
20 SOURCES THAT THE OFFICE IS HEREBY AUTHORIZED TO SEEK AND ACCEPT;
21 AND

22 (d) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL
23 ASSEMBLY.

24 (2) THE MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED
25 BY THE GENERAL ASSEMBLY TO THE OFFICE FOR THE OPERATION OF THE
26 OFFICE. ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL
27 INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE

1 FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE
2 GENERAL FUND AT THE END OF ANY FISCAL YEAR.

3 **SECTION 2.** 12-47.1-701 (4) (a) (V) (A), Colorado Revised
4 Statutes, is amended to read:

5 **12-47.1-701. Limited gaming fund.** (4) (a) At the end of each
6 fiscal year, the state treasurer shall distribute the balance remaining in the
7 limited gaming fund in accordance with the provisions of section 9 (5) (b)
8 (II) of article XVIII of the state constitution and paragraph (c) of
9 subsection (1) of this section; except that:

10 (V) (A) Except as provided in sub-subparagraphs (B), (C), and (E)
11 of this subparagraph (V), for the 2006-07, 2007-08 AND 2008-09 fiscal
12 ~~year and each fiscal year thereafter~~ YEARS, of the portion of limited
13 gaming fund moneys that would otherwise be transferred to the general
14 fund pursuant to section 9 (5) (b) (II) of article XVIII of the state
15 constitution, after the transfer to the local government limited gaming
16 impact fund required by section 12-47.1-1601, six hundred thousand
17 dollars shall be transferred to the film incentives cash fund created in
18 section 24-46-105.8, C.R.S. EXCEPT AS PROVIDED IN
19 SUB-SUBPARAGRAPHS (B) AND (C) OF THIS SUBPARAGRAPH (V), FOR THE
20 2009-10 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER, OF THE
21 PORTION OF LIMITED GAMING FUND MONEYS THAT WOULD OTHERWISE BE
22 TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 9 (5) (b) (II)
23 OF ARTICLE XVIII OF THE STATE CONSTITUTION, AFTER THE TRANSFER TO
24 THE LOCAL GOVERNMENT LIMITED GAMING IMPACT FUND REQUIRED BY
25 SECTION 12-47.1-1601, SIX HUNDRED THOUSAND DOLLARS SHALL BE
26 TRANSFERRED TO THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA
27 OPERATIONAL ACCOUNT CASH FUND CREATED IN SECTION 24-48.5-203,

1 C.R.S. For purposes of the transfers occurring at the end of the 2006-07
2 fiscal year and each fiscal year thereafter, no later than June 1, 2007, and
3 no later than June 1 of each calendar year thereafter, the executive
4 director shall adjust the dollar amounts specified in this sub-subparagraph
5 (A) to reflect the percentage change in the consumer price index for the
6 Denver metropolitan area. As used in this sub-subparagraph (A),
7 "percentage change in the consumer price index for the Denver
8 metropolitan area" means the percentage change between the two
9 published annual estimates of the consumer price index for the
10 Denver-Boulder-Greeley combined statistical area for all urban
11 consumers, all goods, as defined and officially reported by the bureau of
12 labor statistics in the United States department of labor for the two
13 calendar years immediately preceding the calendar year in which the
14 adjustment is made.

15 **SECTION 3.** 24-46-105.8 (4) (a) and (6) (a), Colorado Revised
16 Statutes, are amended to read:

17 **24-46-105.8. Performance-based incentive for film production**
18 **in Colorado - film incentives cash fund - definitions - repeal.**

19 (4) (a) For the 2006-07, 2007-08 AND 2008-09 fiscal year ~~and for each~~
20 ~~fiscal year thereafter~~ YEARS, the general assembly shall annually
21 appropriate the moneys transferred to the fund pursuant to section
22 12-47.1-701 (4) (a) (V), C.R.S., to the commission to be used for
23 performance-based incentives for the motion picture industry pursuant to
24 the provisions of this section. ANY MONEYS REMAINING IN THE FUND ON
25 JULY 1, 2009, SHALL BE TRANSFERRED TO THE COLORADO OFFICE OF FILM,
26 TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND CREATED IN
27 SECTION 24-48.5-203.

1 (6) (a) There is hereby created in the state treasury the film
2 incentives cash fund, referred to in this section as the "fund". The fund
3 shall consist of:

4 (I) Moneys transferred to the fund in accordance with section
5 12-47.1-701 (4) (a), C.R.S.; and

6 (II) Any moneys appropriated to the fund by the general assembly;
7 AND

8 (III) ANY GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC
9 SOURCES THAT THE COMMISSION IS HEREBY AUTHORIZED TO SEEK AND
10 ACCEPT.

11 **SECTION 4.** Part 5 of article 22 of title 39, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **39-22-531. Colorado film production tax credit - rules -**
15 **definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY THE
18 OFFICE CERTIFYING THAT CERTAIN PRODUCTION ACTIVITIES QUALIFY FOR
19 THE CREDIT AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT
20 OF THE CREDIT ALLOWED.

21 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

22 (c) "FILM" HAS THE SAME MEANING AS SET FORTH IN SECTION
23 24-48.5-201 (1), C.R.S.

24 (d) "OFFICE" MEANS THE COLORADO OFFICE OF FILM, TELEVISION,
25 AND MEDIA CREATED IN SECTION 24-48.5-202, C.R.S.

26 (e) "PRODUCTION ACTIVITIES" HAS THE SAME MEANING AS SET
27 FORTH IN SECTION 24-48.5-201 (3), C.R.S.

1 (f) "PRODUCTION COMPANY" MEANS ANY INDIVIDUAL, FIRM,
2 CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, JOINT
3 VENTURE, ESTATE, TRUST, OR GROUP OR COMBINATION ACTING AS A UNIT
4 THAT ENGAGES IN PRODUCTION ACTIVITIES FOR THE PURPOSE OF
5 PRODUCING ALL OR ANY PORTION OF A FILM IN COLORADO.

6 (g) "TAXPAYER" HAS THE SAME MEANING AS SET FORTH IN
7 SECTION 39-21-101 (4).

8 (h) "TOTAL QUALIFIED EXPENDITURES" INCLUDES QUALIFIED
9 LOCAL EXPENDITURES AS DEFINED IN SECTION 24-48.5-201 (5), C.R.S.,
10 AND QUALIFIED PAYROLL EXPENDITURES AS DEFINED IN SECTION
11 24-48.5-201 (6), C.R.S., THAT ARE INCURRED BY A PRODUCTION COMPANY
12 AND EQUAL OR EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS.

13 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
14 JANUARY 1, 2009, BUT PRIOR TO JANUARY 1, 2014, THERE MAY, AT THE
15 DISCRETION OF THE OFFICE, BE ALLOWED TO ANY PRODUCTION COMPANY
16 A COLORADO FILM PRODUCTION TAX CREDIT WITH RESPECT TO THE
17 INCOME TAXES IMPOSED BY THIS ARTICLE IN THE AMOUNT DETERMINED BY
18 THE OFFICE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2).

19 (b) (I) THE OFFICE SHALL APPROVE ANY COLORADO FILM
20 PRODUCTION TAX CREDIT ALLOWED PURSUANT TO PARAGRAPH (a) OF THIS
21 SUBSECTION (2) UPON APPLICATION FOR A CREDIT BY A PRODUCTION
22 COMPANY PURSUANT TO THE FOLLOWING REQUIREMENTS:

23 (A) THE PRODUCTION COMPANY SHALL MAKE EVERY EFFORT TO
24 ENSURE THAT COLORADO IS ACKNOWLEDGED IN THE CLOSING CREDITS OF
25 THE FILM BY SPECIFYING THAT THE PRODUCTION WAS FILMED ON
26 LOCATION IN COLORADO UNLESS SUCH REQUIREMENT IS WAIVED BY THE
27 OFFICE BASED ON THE NATURE OF THE PRODUCTION.

1 (B) THE PRODUCTION COMPANY SHALL SUBMIT A COMPLETE
2 APPLICATION CONSISTING OF A STATEMENT OF INTENT TO THE OFFICE
3 BEFORE PRINCIPAL PHOTOGRAPHY BEGINS ON THE FILM IN COLORADO.
4 THE APPLICATION SHALL INCLUDE A COPY OF THE SCRIPT SO THAT THE
5 OFFICE MAY DETERMINE THAT THE SCRIPT IS NOT OBSCENE IN NATURE. BY
6 SUBMITTING AN APPLICATION AND SEEKING A CREDIT PURSUANT TO THIS
7 SECTION, THE PRODUCTION COMPANY AGREES TO PAY ALL OBLIGATIONS
8 THE PRODUCTION COMPANY INCURS IN COLORADO DURING PRODUCTION
9 ACTIVITIES.

10 (C) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY
11 ANY PRODUCTION COMPANY. BASED ON THE APPLICATION SUBMITTED,
12 THE OFFICE MAY OFFER CONDITIONAL APPROVAL TO A PRODUCTION
13 COMPANY FOR A CREDIT AUTHORIZED IN THIS SECTION, INCLUDING AN
14 ESTIMATE OF THE AMOUNT OF THE CREDIT AVAILABLE TO THE
15 PRODUCTION COMPANY UPON COMPLETION OF PRODUCTION ACTIVITIES.
16 A PRODUCTION COMPANY THAT RECEIVES CONDITIONAL APPROVAL FOR A
17 CREDIT SHALL NOTIFY THE OFFICE PROMPTLY IF THE FILM IS CANCELED OR
18 OTHERWISE BECOMES INELIGIBLE FOR THE ESTIMATED CREDIT, SO THAT
19 CREDITS EARMARKED FOR THAT FILM MAY BE RELEASED. A CONDITIONAL
20 APPROVAL MAY BE CANCELED IF THE PRODUCTION COMPANY VIOLATES
21 THE TERMS OF THE CONDITIONAL APPROVAL. IF A PRODUCTION COMPANY
22 THAT RECEIVES CONDITIONAL APPROVAL DOES NOT COMMENCE PRINCIPAL
23 PHOTOGRAPHY ON THE FILM WITHIN ONE HUNDRED TWENTY DAYS AFTER
24 THE ISSUANCE OF THE CONDITIONAL APPROVAL, OR DOES NOT APPLY FOR
25 AN EXTENSION OF THE PERIOD, THE CONDITIONAL APPROVAL IS VOID, AND
26 THE PRODUCTION COMPANY MUST REAPPLY FOR THE CREDIT.

27 (D) WITHIN NINETY DAYS AFTER COMPLETION OF PRODUCTION

1 ACTIVITIES IN COLORADO, A PRODUCTION COMPANY THAT HAS RECEIVED
2 CONDITIONAL APPROVAL FOR A CREDIT AS SPECIFIED IN
3 SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (I) SHALL SUBMIT A
4 FINAL APPLICATION TO THE OFFICE. THE FINAL APPLICATION SHALL
5 INCLUDE DOCUMENTS THAT DETAIL THE EXPENSES INCURRED IN THE
6 COURSE OF PRODUCTION ACTIVITIES IN COLORADO, INCLUDING A LEDGER
7 WITH FULL VENDOR NAMES; FINAL CREW AND VENDOR LISTS; THE TOTAL
8 AMOUNT EXPENDED IN COLORADO; THE TOTAL NUMBER OF
9 COLORADO-BASED CREW MEMBERS HIRED; A LIST OF ALL COLORADO
10 COUNTIES, CITY AND COUNTIES, OR MUNICIPALITIES USED FOR
11 PRODUCTION ACTIVITY LOCATIONS; AND A SIGNED AFFIDAVIT STATING
12 THAT THE FINANCIAL DOCUMENTS PROVIDED ARE AN ACCURATE
13 ACCOUNTING OF THE PRODUCTION COMPANY'S TOTAL QUALIFIED
14 EXPENDITURES.

15 (E) IF THE AMOUNT OF THE ACTUAL TOTAL QUALIFIED
16 EXPENDITURES MEETS OR EXCEEDS THE PRODUCTION COMPANY'S
17 PROJECTED TOTAL QUALIFIED EXPENDITURES THAT WERE SUBMITTED TO
18 THE OFFICE IN THE PRODUCTION COMPANY'S APPLICATION, THE OFFICE
19 SHALL APPROVE A CREDIT AUTHORIZED IN THIS SECTION AND ISSUE TO THE
20 PRODUCTION COMPANY A CREDIT CERTIFICATE.

21 (F) THE OFFICE OR ITS DESIGNEE MAY AUDIT THE ACCOUNTS OF A
22 PRODUCTION COMPANY UP TO TWELVE MONTHS FOLLOWING THE ISSUANCE
23 OF A CREDIT CERTIFICATE.

24 (II) THE CREDIT AUTHORIZED IN THIS SECTION SHALL BE IN AN
25 AMOUNT DETERMINED BY THE OFFICE, SUBJECT TO THE FOLLOWING
26 GUIDELINES:

27 (A) THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION

1 SHALL EQUAL UP TO TWENTY PERCENT OF A PRODUCTION COMPANY'S
2 TOTAL QUALIFIED EXPENDITURES.

3 (B) THE AGGREGATE SUM OF CREDITS ANNUALLY APPROVED BY
4 THE OFFICE PURSUANT TO THIS SECTION, INCLUDING ANY CREDIT CARRIED
5 FORWARD PURSUANT TO SUBSECTION (4) OF THIS SECTION AND ANY
6 CREDIT TRANSFERRED PURSUANT TO SUBSECTION (5) OF THIS SECTION,
7 SHALL NOT EXCEED TEN MILLION DOLLARS IN ANY INCOME TAX YEAR.

8 (c) NO LATER THAN JANUARY 30, 2010, AND NO LATER THAN
9 JANUARY 30 OF EACH YEAR THEREAFTER THROUGH JANUARY 30, 2015,
10 THE OFFICE SHALL REPORT TO THE FINANCE COMMITTEES OF THE SENATE
11 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES,
12 REGARDING ALL CREDIT CERTIFICATES ISSUED PURSUANT TO THIS SECTION.

13 (3) IF A PRODUCTION COMPANY RECEIVING A CREDIT AUTHORIZED
14 IN THIS SECTION IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S
15 CORPORATION, OR SIMILAR PASS-THROUGH ENTITY, THE PRODUCTION
16 COMPANY MAY ALLOCATE THE CREDIT AMONG ITS PARTNERS,
17 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS IN ANY
18 MANNER AGREED TO BY SUCH PARTNERS, SHAREHOLDERS, MEMBERS, OR
19 OTHER CONSTITUENT TAXPAYERS. THE PRODUCTION COMPANY SHALL
20 CERTIFY TO THE OFFICE THE AMOUNT OF CREDIT ALLOCATED TO EACH
21 PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER.
22 EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT
23 TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH AMOUNT SUBJECT TO ANY
24 RESTRICTIONS SET FORTH IN THIS SECTION.

25 (4) (a) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE
26 INCOME TAX DUE ON THE INCOME OF THE TAXPAYER FOR THE TAXABLE
27 YEAR, THE EXCESS CREDIT MAY BE CARRIED FORWARD AND SHALL BE

1 CLAIMED ON THE EARLIEST POSSIBLE SUBSEQUENT TAX RETURN FOR A
2 PERIOD NOT TO EXCEED THREE YEARS. ANY AMOUNT OF THE CREDIT THAT
3 IS NOT USED WITHIN THE PERIOD SHALL NOT BE REFUNDED OR CREDITED
4 TO THE TAXPAYER.

5 (b) IF A CREDIT AUTHORIZED IN THIS SECTION IS CARRIED FORWARD
6 PURSUANT TO THIS SUBSECTION (4), THE TAXPAYER SHALL PROVIDE THE
7 OFFICE WITH THE AMOUNT OF THE CREDIT CARRIED FORWARD AND THE
8 INCOME TAX YEAR TO WHICH THE CREDIT WAS CARRIED FORWARD.

9 (5) (a) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A
10 CREDIT AUTHORIZED IN THIS SECTION TO ANOTHER TAXPAYER FOR THE
11 OTHER TAXPAYER, AS TRANSFEREE, TO APPLY AS A CREDIT AGAINST THE
12 TAXES IMPOSED BY THIS ARTICLE SUBJECT TO THE FOLLOWING
13 LIMITATIONS:

14 (I) THE TAXPAYER MAY ONLY TRANSFER THE PORTION OF A CREDIT
15 AUTHORIZED IN THIS SECTION THAT THE TAXPAYER HAS NOT APPLIED
16 AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE.

17 (II) THE TAXPAYER MAY TRANSFER A PRORATED PORTION OF A
18 CREDIT AUTHORIZED IN THIS SECTION TO MORE THAN ONE TRANSFEREE.

19 (III) THE TAXPAYER SHALL NOT TRANSFER ANY PORTION OF A
20 CREDIT AUTHORIZED IN THIS SECTION IN AN AMOUNT LESS THAN FIVE
21 THOUSAND DOLLARS.

22 (IV) A TRANSFEREE OF A CREDIT AUTHORIZED IN THIS SECTION
23 MAY NOT TRANSFER HIS OR HER TRANSFERRED CREDIT TO ANOTHER
24 TAXPAYER.

25 (V) A TRANSFEREE OF A CREDIT AUTHORIZED IN THIS SECTION
26 SHALL PURCHASE THE CREDIT PRIOR TO THE DUE DATE IMPOSED BY THIS
27 ARTICLE, NOT INCLUDING ANY EXTENSIONS, FOR FILING THE TRANSFEREE'S

1 INCOME TAX RETURN.

2 (VI) A CREDIT AUTHORIZED IN THIS SECTION HELD BY AN
3 INDIVIDUAL, BUT NOT A CREDIT HELD BY A TRANSFEREE UNLESS USED BY
4 THE TRANSFEREE'S ESTATE FOR TAXES OWED BY THE ESTATE, SHALL
5 SURVIVE THE DEATH OF THE INDIVIDUAL AND MAY BE CLAIMED OR
6 TRANSFERRED BY THE DECEDENT'S ESTATE.

7 (VII) THE PRODUCTION COMPANY ISSUED A CREDIT CERTIFICATE
8 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION OR THE
9 TRANSFEROR OF A CREDIT TRANSFERRED PURSUANT TO THIS SUBSECTION
10 (5) SHALL BE THE TAX MATTERS REPRESENTATIVE IN ALL MATTERS WITH
11 RESPECT TO THE CREDIT. THE TAX MATTERS REPRESENTATIVE SHALL BE
12 RESPONSIBLE FOR REPRESENTING THE TRANSFEREES WITH RESPECT TO ALL
13 ISSUES AFFECTING THE CREDIT, INCLUDING, BUT NOT LIMITED TO,
14 NOTIFICATIONS AND CORRESPONDENCE FROM AND WITH THE DEPARTMENT,
15 AUDIT EXAMINATIONS, ASSESSMENTS OR REFUNDS, SETTLEMENT
16 AGREEMENTS, AND THE STATUTE OF LIMITATIONS. IN NO EVENT SHALL
17 THE TRANSFEREE BE RESPONSIBLE FOR ANY TAX PENALTIES OR
18 ASSESSMENTS RESULTING FROM AN AUDIT OF THE TRANSFEROR OR
19 PRODUCTION COMPANY.

20 (VIII) FINAL RESOLUTION OF DISPUTES REGARDING A CREDIT
21 AUTHORIZED IN THIS SECTION BETWEEN THE DEPARTMENT AND THE TAX
22 MATTERS REPRESENTATIVE, INCLUDING FINAL DETERMINATIONS,
23 COMPROMISES, PAYMENT OF ADDITIONAL TAXES OR REFUNDS DUE, AND
24 ADMINISTRATIVE AND JUDICIAL DECISIONS, SHALL NOT BE BINDING ON
25 TRANSFEREES AND SHALL BE THE SOLE RESPONSIBILITY OF THE TAX
26 MATTERS REPRESENTATIVE.

27 (b) IF A TAXPAYER TRANSFERS A CREDIT AUTHORIZED IN THIS

1 SECTION PURSUANT TO THIS SUBSECTION (5), THE TAXPAYER SHALL
2 SURRENDER THE EXISTING CREDIT CERTIFICATE TO THE OFFICE AND
3 PROVIDE THE OFFICE WITH THE TRANSFEREE'S NAME, THE TRANSFEREE'S
4 COLORADO ACCOUNT NUMBER OR SOCIAL SECURITY NUMBER, AND THE
5 AMOUNT OF THE CREDIT TRANSFERRED. THE TAXPAYER SHALL THEN
6 OBTAIN CREDIT CERTIFICATES FOR THE TRANSFERRED PORTIONS OF THE
7 CREDIT FROM THE OFFICE AND DISTRIBUTE SUCH CREDIT CERTIFICATES TO
8 THE TRANSFEREE OF THE CREDIT PRIOR TO ANY DUE DATE IMPOSED BY
9 THIS ARTICLE, NOT INCLUDING ANY EXTENSIONS, FOR FILING THE
10 TRANSFEREE'S INCOME TAX RETURN.

11 (6) (a) NO LATER THAN NOVEMBER 30, 2009, AND NO LATER THAN
12 NOVEMBER 30 OF EACH YEAR THEREAFTER THROUGH NOVEMBER 30,
13 2015, THE OFFICE SHALL PROVIDE THE DEPARTMENT WITH AN ELECTRONIC
14 REPORT OF THE TAXPAYERS RECEIVING A CREDIT AUTHORIZED IN THIS
15 SECTION FOR THAT INCOME TAX YEAR THAT INCLUDES THE FOLLOWING
16 INFORMATION:

17 (I) THE TAXPAYER'S NAME;

18 (II) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
19 SECURITY NUMBER;

20 (III) THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION
21 ALLOCATED; AND

22 (IV) THE ASSOCIATED PASS-THROUGH ENTITY NAME AND
23 COLORADO ACCOUNT NUMBER IF THE CREDIT AUTHORIZED IN THIS
24 SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY PURSUANT TO
25 SUBSECTION (3) OF THIS SECTION.

26 (b) NO LATER THAN APRIL 20, 2010, AND NO LATER THAN APRIL
27 20 OF EACH YEAR THEREAFTER THROUGH APRIL 20, 2015, THE OFFICE

1 SHALL PROVIDE THE DEPARTMENT WITH AN ELECTRONIC REPORT OF THE
2 TRANSFEREES OF THE CREDIT AUTHORIZED IN THIS SECTION FOR THE
3 PRECEDING INCOME TAX YEAR THAT INCLUDES THE FOLLOWING
4 INFORMATION:

5 (I) THE TRANSFEROR'S NAME;

6 (II) THE TRANSFEROR'S COLORADO ACCOUNT NUMBER OR SOCIAL
7 SECURITY NUMBER;

8 (III) THE TRANSFEREE'S NAME;

9 (IV) THE TRANSFEREE'S COLORADO ACCOUNT NUMBER OR SOCIAL
10 SECURITY NUMBER; AND

11 (V) THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION
12 TRANSFERRED.

13 (7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
14 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE
15 ANY PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN
16 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE
17 INCLUDED IN INCOME TAX FORMS.

18 (8) ANY TAXPAYER WHO OFFSETS A TAX DEFICIENCY WITH A
19 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
20 THIS SECTION SHALL BE LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
21 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE
22 PROVIDED BY LAW.

23 (9) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2019.

24 **SECTION 5. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.