

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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 **FILMPRODUCTION ACTIVITIES, AND MAKING AN APPROPRIATION**
103 **THEREFOR.**

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.

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.*

HOUSE
Amended 2nd Reading
April 8, 2009

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

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

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

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

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

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

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

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

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

27 (f) PAYMENTS FOR AIRFARE PURCHASED THROUGH A

1 COLORADO-BASED TRAVEL AGENCY OR COMPANY;

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

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

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

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

25 (2) THE OFFICE SHALL:

26 (a) MARKET COLORADO AS A DESTINATION FOR MAKING FEATURE
27 FILMS, TELEVISION SHOWS, TELEVISION COMMERCIALS, STILL

1 PHOTOGRAPHY, MUSIC VIDEOS, AND NEW MEDIA PROJECTS;


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

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

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

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

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

24 
25 (g) CONDUCT EDUCATIONAL SEMINARS TO PROMOTE THE FILM
26 INDUSTRY AND PEOPLE WORKING IN THE FILM INDUSTRY IN COLORADO;
27 AND

1 (h) PERFORM ANY OTHER DUTIES IN FURTHERANCE OF THE OFFICE'S
2 MISSION AS DEEMED NECESSARY BY THE DIRECTOR OF THE OFFICE AND THE
3 GOVERNOR.

4 **24-48.5-203. Colorado office of film, television, and media**
5 **operational account cash fund - creation - repeal.** (1) THERE IS
6 HEREBY CREATED IN THE STATE TREASURY THE COLORADO OFFICE OF
7 FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND,
8 REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST
9 OF:

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

12 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1,
13 2010.

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

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

19 (d) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL
20 ASSEMBLY.

21 (2) THE MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED
22 BY THE GENERAL ASSEMBLY TO THE OFFICE FOR THE OPERATION OF THE
23 OFFICE. ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL
24 INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE
25 FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE
26 GENERAL FUND AT THE END OF ANY FISCAL YEAR.

27 **SECTION 2.** 12-47.1-701 (4) (a) (V) (A), (4) (a) (V) (B), and

1 (4) (a) (V) (C), Colorado Revised Statutes, are amended to read:

2 **12-47.1-701. Limited gaming fund.** (4) (a) At the end of each
3 fiscal year, the state treasurer shall distribute the balance remaining in the
4 limited gaming fund in accordance with the provisions of section 9 (5) (b)
5 (II) of article XVIII of the state constitution and paragraph (c) of
6 subsection (1) of this section; except that:

7 (V) (A) Except as provided in sub-subparagraphs (B), (C), and (E)
8 of this subparagraph (V), for the 2006-07, 2007-08 AND 2008-09 fiscal
9 ~~year and each fiscal year thereafter~~ YEARS, of the portion of limited
10 gaming fund moneys that would otherwise be transferred to the general
11 fund pursuant to section 9 (5) (b) (II) of article XVIII of the state
12 constitution, after the transfer to the local government limited gaming
13 impact fund required by section 12-47.1-1601, six hundred thousand
14 dollars shall be transferred to the film incentives cash fund created in
15 section 24-46-105.8, C.R.S. EXCEPT AS PROVIDED IN
16 SUB-SUBPARAGRAPHS (B) AND (C) OF THIS SUBPARAGRAPH (V), FOR THE
17 2009-10 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER, OF THE
18 PORTION OF LIMITED GAMING FUND MONEYS THAT WOULD OTHERWISE BE
19 TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 9 (5) (b) (II)
20 OF ARTICLE XVIII OF THE STATE CONSTITUTION, AFTER THE TRANSFER TO
21 THE LOCAL GOVERNMENT LIMITED GAMING IMPACT FUND REQUIRED BY
22 SECTION 12-47.1-1601, SIX HUNDRED THOUSAND DOLLARS SHALL BE
23 TRANSFERRED TO THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA
24 OPERATIONAL ACCOUNT CASH FUND CREATED IN SECTION 24-48.5-203,
25 C.R.S. For purposes of the transfers occurring at the end of the 2006-07
26 fiscal year and each fiscal year thereafter, no later than June 1, 2007, and
27 no later than June 1 of each calendar year thereafter, the executive

1 director shall adjust the dollar amounts specified in this sub-subparagraph
2 (A) to reflect the percentage change in the consumer price index for the
3 Denver metropolitan area. As used in this sub-subparagraph (A),
4 "percentage change in the consumer price index for the Denver
5 metropolitan area" means the percentage change between the two
6 published annual estimates of the consumer price index for the
7 Denver-Boulder-Greeley combined statistical area for all urban
8 consumers, all goods, as defined and officially reported by the bureau of
9 labor statistics in the United States department of labor for the two
10 calendar years immediately preceding the calendar year in which the
11 adjustment is made.

12 (V) (B) If, based on the March revenue forecast prepared by the
13 legislative council, the joint budget committee determines that the amount
14 of general fund revenues for the fiscal year in which the forecast is
15 prepared will be insufficient to allow the maximum amount of general
16 fund appropriations permitted by section 24-75-201.1 (1) (a) (II), C.R.S.,
17 to be made for that fiscal year, the joint budget committee, acting by bill,
18 shall determine the amount of limited gaming fund moneys, if any, that
19 should be transferred to the film incentives cash fund OR THE COLORADO
20 OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH
21 FUND pursuant to sub-subparagraph (A) of this subparagraph (V) at the
22 end of that fiscal year.

23 (C) If the joint budget committee, pursuant to sub-subparagraph
24 (B) of this subparagraph (V), does not determine the amount of limited
25 gaming fund moneys, if any, to be transferred to the film incentives cash
26 fund OR THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA
27 OPERATIONAL ACCOUNT CASH FUND specified in sub-subparagraph (A) of

1 this subparagraph (V) and if, based on the June revenue forecast prepared
2 by the legislative council, the state treasurer determines that the amount
3 of general fund revenues for the fiscal year in which the forecast is
4 prepared will be insufficient to allow the maximum amount of general
5 fund appropriations permitted by section 24-75-201.1 (1) (a) (II), C.R.S.,
6 to be made for that fiscal year, the state treasurer shall transfer to the
7 general fund from the moneys that would otherwise be transferred to the
8 film incentives cash fund OR THE COLORADO OFFICE OF FILM, TELEVISION,
9 AND MEDIA OPERATIONAL ACCOUNT CASH FUND pursuant to
10 sub-subparagraph (A) of this subparagraph (V) at the end of the fiscal
11 year an amount equal to the lesser of the full amount that would otherwise
12 be transferred to the film incentives cash fund OR THE COLORADO OFFICE
13 OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND or
14 the amount necessary to allow the maximum amount of general fund
15 appropriations to be made for the fiscal year. Any reduction in the
16 amount transferred to the film incentives cash fund OR THE COLORADO
17 OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH
18 FUND required by this sub-subparagraph (C) and the amounts transferred
19 to the state council on the arts cash fund, the new jobs incentives cash
20 fund, and the Colorado travel and tourism promotion fund required by
21 sub-subparagraph (B) of subparagraph (IV) of this paragraph (a) shall be
22 pro-rated based on the amounts otherwise required to be transferred to
23 said funds pursuant to sub-subparagraph (A) of this subparagraph (V) and
24 sub-subparagraph (A) of subparagraph (IV) of this paragraph (a).

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

27 **24-46-105.8. Performance-based incentive for film production**

1 **in Colorado - film incentives cash fund - definitions - repeal.**

2 (4) (a) For the 2006-07, 2007-08 AND 2008-09 fiscal year and for each
3 ~~fiscal year thereafter~~ YEARS, the general assembly shall annually
4 appropriate the moneys transferred to the fund pursuant to section
5 12-47.1-701 (4) (a) (V), C.R.S., to the commission to be used for
6 performance-based incentives for the motion picture industry pursuant to
7 the provisions of this section. ANY MONEYS REMAINING IN THE FUND ON
8 JULY 1, 2009, SHALL BE TRANSFERRED TO THE COLORADO OFFICE OF FILM,
9 TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND CREATED IN
10 SECTION 24-48.5-203.

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

14 (I) Moneys transferred to the fund in accordance with section
15 12-47.1-701 (4) (a), C.R.S.; and

16 (II) Any moneys appropriated to the fund by the general assembly;
17 AND

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

21 **SECTION 4. Appropriation - adjustments to the 2009 long**

22 **bill.** (1) In addition to any other appropriation, there is hereby
23 appropriated, out of any moneys in the Colorado office of film, television,
24 and media operational account cash fund created in section 24-48.5-203
25 (1), Colorado Revised Statutes, not otherwise appropriated, to the
26 department of governor – lieutenant governor – state planning and
27 budgeting, for allocation to the economic development programs division,

1 for Colorado office of film, television, and media, for the fiscal year
2 beginning July 1, 2009, the sum of five hundred eighty thousand eight
3 dollars (\$580,008) cash funds and 6.0 FTE, or so much thereof as may be
4 necessary, for the implementation of this act.

5 (2) In addition to any other appropriation, there is hereby
6 appropriated to the department of revenue, for allocation to the
7 information technology division, for programming costs for 2009 session
8 legislation, for the fiscal year beginning July 1, 2009, the sum of fifty-five
9 thousand eight hundred fifty-two dollars (\$55,852), or so much thereof as
10 may be necessary, for the implementation of this act. Said sum shall be
11 from reappropriated funds received from the department of governor –
12 lieutenant governor – state planning and budgeting out of the
13 appropriation made in subsection (1) of this section.

14 (3) For the implementation of this act, the appropriation made in
15 the annual general appropriation act for the fiscal year beginning July 1,
16 2009, for the department of governor – lieutenant governor – state
17 planning and budgeting, division of economic development programs, for
18 film incentives, from the film incentives cash fund, is decreased by four
19 hundred eighty thousand eleven dollars (\$480,011) cash funds.

20

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