

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

**REENGROSSED**

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

LLS NO. 09-0461.01 Esther van Mourik

**HOUSE BILL 09-1010**

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**HOUSE SPONSORSHIP**

**Massey and McGihon,**

**SENATE SPONSORSHIP**

**Gibbs and Spence,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE PROMOTION OF COLORADO AS A LOCATION FOR**  
102 **FILMPRODUCTION ACTIVITIES, AND MAKING AN APPROPRIATION**  
103 **THEREFOR.**

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**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  
3rd Reading Unamended  
April 9, 2009

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.

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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.