

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

REVISED

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

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

State, Veterans & Military Affairs
Appropriations

A BILL FOR AN ACT

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

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.

SENATE
Am ended 2nd Reading
May 4, 2009

HOUSE
3rd Reading Unam ended
April 9, 2009

HOUSE
Am ended 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 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) ADMINISTER THE PERFORMANCE-BASED INCENTIVE FOR FILM
24 PRODUCTION IN COLORADO AS SPECIFIED IN SECTION 24-48.5-203;

25 

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

1 AND

2 (i) PERFORM ANY OTHER DUTIES IN FURTHERANCE OF THE OFFICE'S
3 MISSION AS DEEMED NECESSARY BY THE DIRECTOR OF THE OFFICE AND THE
4 DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT.

5 **24-48.5-203. Performance-based incentive for film production**
6 **in Colorado - Colorado office of film, television, and media**
7 **operational account cash fund - creation - repeal. (1) SUBJECT TO THE**
8 **PROVISIONS OF THIS SECTION, ON OR AFTER JULY 1, 2009, ANY**
9 **PRODUCTION COMPANY THAT SPENDS AT LEAST SEVENTY-FIVE PERCENT**
10 **OF ITS PRODUCTION EXPENDITURES FOR A FILM ON QUALIFIED LOCAL**
11 **EXPENDITURES AND AT LEAST SEVENTY-FIVE PERCENT OF ITS PAYROLL**
12 **EXPENDITURES FOR A FILM ON QUALIFIED LOCAL PAYROLL EXPENDITURES**
13 **SHALL BE ALLOWED TO CLAIM A PERFORMANCE-BASED INCENTIVE IN AN**
14 **AMOUNT AS FOLLOWS:**

15 (a) FOR A PRODUCTION COMPANY THAT ORIGINATES THE FILM
16 PRODUCTION IN COLORADO, AN AMOUNT EQUAL TO TEN PERCENT OF THE
17 TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL
18 EXPENDITURES AND QUALIFIED PAYROLL EXPENDITURES IF THE TOTAL OF
19 SUCH EXPENDITURES EQUALS OR EXCEEDS ONE HUNDRED THOUSAND
20 DOLLARS; AND

21 (b) FOR A PRODUCTION COMPANY THAT DOES NOT ORIGINATE THE
22 FILM PRODUCTION ACTIVITIES IN COLORADO, AN AMOUNT EQUAL TO TEN
23 PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION COMPANY'S
24 QUALIFIED LOCAL EXPENDITURES AND QUALIFIED PAYROLL EXPENDITURES
25 IF THE TOTAL OF SUCH EXPENDITURES EQUALS OR EXCEEDS ONE MILLION
26 DOLLARS.

27 (2) (a) IN ORDER FOR A PRODUCTION COMPANY TO CLAIM A

1 PERFORMANCE-BASED INCENTIVE FOR FILM PRODUCTION ACTIVITIES IN
2 COLORADO PURSUANT TO THIS SECTION, THE PRODUCTION COMPANY
3 SHALL APPLY TO THE OFFICE, IN A MANNER TO BE DETERMINED BY THE
4 OFFICE, PRIOR TO BEGINNING PRODUCTION ACTIVITIES IN THE STATE. THE
5 APPLICATION SHALL INCLUDE A STATEMENT OF INTENT BY THE
6 PRODUCTION COMPANY TO PRODUCE A FILM IN COLORADO FOR WHICH THE
7 PRODUCTION COMPANY WILL BE ELIGIBLE TO RECEIVE THE INCENTIVE.
8 THE PRODUCTION COMPANY SHALL SUBMIT, IN CONJUNCTION WITH THE
9 APPLICATION, ANY DOCUMENTATION NECESSARY TO DEMONSTRATE THAT
10 THE PRODUCTION COMPANY'S PROJECTED QUALIFIED LOCAL EXPENDITURES
11 AND QUALIFIED PAYROLL EXPENDITURES WILL SATISFY THE EXPENDITURES
12 SPECIFIED IN PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF THIS SECTION,
13 AS APPLICABLE.

14 (b) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY
15 A PRODUCTION COMPANY BEFORE THE PRODUCTION COMPANY BEGINS
16 WORK ON A FILM IN COLORADO. BASED ON THE INFORMATION PROVIDED
17 IN THE PRODUCTION COMPANY'S APPLICATION, THE OFFICE SHALL MAKE AN
18 INITIAL DETERMINATION OF WHETHER THE PRODUCTION COMPANY WILL BE
19 ELIGIBLE TO RECEIVE A PERFORMANCE-BASED INCENTIVE AND ESTIMATE
20 THE AMOUNT OF THE INCENTIVE THAT WILL BE DUE TO THE PRODUCTION
21 COMPANY. THE OFFICE SHALL GRANT CONDITIONAL WRITTEN APPROVAL
22 TO EVERY PRODUCTION COMPANY THAT, BASED ON THE INFORMATION
23 PROVIDED BY THE PRODUCTION COMPANY, WILL SATISFY THE
24 REQUIREMENTS OF THIS SECTION AND BE ELIGIBLE TO CLAIM AN
25 INCENTIVE.

26 (c) UPON COMPLETION OF PRODUCTION ACTIVITIES IN COLORADO,
27 A PRODUCTION COMPANY THAT RECEIVED CONDITIONAL APPROVAL FOR A

1 PERFORMANCE-BASED INCENTIVE FROM THE OFFICE SHALL SUBMIT
2 FINANCIAL DOCUMENTS TO THE OFFICE THAT DETAIL THE EXPENSES
3 INCURRED IN THE COURSE OF THE FILM PRODUCTION ACTIVITIES IN
4 COLORADO, ALONG WITH A SIGNED AFFIDAVIT STATING THAT THE
5 FINANCIAL DOCUMENTS ARE AN ACCURATE ACCOUNTING OF THE
6 PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES AND QUALIFIED
7 PAYROLL EXPENDITURES. IF THE AMOUNT OF THE PRODUCTION
8 COMPANY'S ACTUAL QUALIFIED LOCAL EXPENDITURES AND QUALIFIED
9 PAYROLL EXPENDITURES EQUAL OR EXCEED THE PRODUCTION COMPANY'S
10 PROJECTED QUALIFIED LOCAL EXPENDITURES AND QUALIFIED PAYROLL
11 EXPENDITURES SUBMITTED TO THE OFFICE PURSUANT TO PARAGRAPH (a)
12 OF THIS SUBSECTION (2), THE OFFICE SHALL ISSUE AN INCENTIVE TO THE
13 PRODUCTION COMPANY.

14 (d) THE OFFICE SHALL DEVELOP PROCEDURES FOR THE
15 ADMINISTRATION OF THIS SECTION, INCLUDING APPLICATION GUIDELINES
16 FOR PRODUCTION COMPANIES APPLYING TO RECEIVE A
17 PERFORMANCE-BASED INCENTIVE AND FOR THE OFFICE TO ISSUE PAYMENT
18 OF THE INCENTIVES PURSUANT TO THIS SECTION.

19 (3) THE OFFICE SHALL INCLUDE DATA REGARDING THE NUMBER OF
20 PRODUCTION COMPANIES THAT CLAIMED THE PERFORMANCE-BASED
21 INCENTIVE PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF ALL
22 INCENTIVES CLAIMED DURING THE MOST RECENT FISCAL YEAR FOR WHICH
23 SUCH INFORMATION IS AVAILABLE IN AN ANNUAL REPORT TO THE GENERAL
24 ASSEMBLY.

25 (4) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
26 COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL
27 ACCOUNT CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE

1 FUND SHALL CONSIST OF:

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

4 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1,
5 2010.

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

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

11 (d) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL
12 ASSEMBLY.

13 (5) (a) THE MONEYS IN THE FUND SHALL BE CONTINUOUSLY
14 APPROPRIATED TO THE OFFICE FOR THE OPERATION OF THE OFFICE AND
15 FOR THE PERFORMANCE-BASED INCENTIVE FOR FILM PRODUCTION IN
16 COLORADO AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

17 (b) THE TOTAL AMOUNT OF PERFORMANCE-BASED INCENTIVES
18 THAT THE OFFICE ISSUES PURSUANT TO THIS SECTION IN ANY FISCAL YEAR
19 SHALL NOT EXCEED THE AMOUNT APPROPRIATED TO THE OFFICE TO BE
20 USED FOR THE PURPOSES OF THIS SECTION IN THE APPLICABLE FISCAL
21 YEAR. IF THE OFFICE RECEIVES APPLICATIONS FOR INCENTIVES THAT
22 EXCEED THE AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE
23 FISCAL YEAR, THE OFFICE SHALL ISSUE INCENTIVES TO PRODUCTION
24 COMPANIES IN THE ORDER IN WHICH THE COMMISSION RECEIVED
25 APPLICATIONS UNTIL THE AMOUNT APPROPRIATED HAS BEEN EXPENDED.

26 (c) 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), (4) (a) (V) (B), and
4 (4) (a) (V) (C), Colorado Revised Statutes, are 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 (V) (B) If, based on the March revenue forecast prepared by the
16 legislative council, the joint budget committee determines that the amount
17 of general fund revenues for the fiscal year in which the forecast is
18 prepared will be insufficient to allow the maximum amount of general
19 fund appropriations permitted by section 24-75-201.1 (1) (a) (II), C.R.S.,
20 to be made for that fiscal year, the joint budget committee, acting by bill,
21 shall determine the amount of limited gaming fund moneys, if any, that
22 should be transferred to the film incentives cash fund OR THE COLORADO
23 OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH
24 FUND pursuant to sub-subparagraph (A) of this subparagraph (V) at the
25 end of that fiscal year.

26 (C) If the joint budget committee, pursuant to sub-subparagraph
27 (B) of this subparagraph (V), does not determine the amount of limited

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

1 SECTION 3. 24-46-105.8, Colorado Revised Statutes, is
2 amended to read:

3 **24-46-105.8. Performance-based incentive for film production**
4 **in Colorado - film incentives cash fund - definitions - repeal. (1) As**
5 **used in this section, unless the context otherwise requires:**

6 (a) "Film" means any visual or audiovisual work that contains a
7 series of related images, that is fixed on photographic film, videotape,
8 computer disc, laser disc, or a similar delivery medium from which it can
9 be viewed or reproduced, and that is shown in theaters, licensed for
10 television broadcasting, or licensed for the home viewing market.

11 (b) "Production activities" means the shooting of a film, support
12 activities related to such shooting, and any preshooting or postshooting
13 activities that are necessary to produce a finished film, including but not
14 limited to editing and the creation of sets, props, costumes, and special
15 effects.

16 (c) "Production company" means a person, including a corporation
17 or other business entity, that engages in production activities for the
18 purpose of producing all or any portion of a film in Colorado.

19 (d) "Qualified local expenditure" means a payment made by a
20 production company in Colorado to a business in Colorado in connection
21 with the production of a film that the production company is producing
22 in Colorado. "Qualified local expenditure" shall include, but shall not be
23 limited to:

24 (I) Payments made in connection with developing or purchasing
25 the story and scenario to be used for a film;

26 (II) Payments made for the costs of set construction and
27 operations, wardrobe, accessories, and related services;

1 ~~(III) Payments made for the costs of photography, sound~~
2 ~~synchronization, lighting, and related services;~~

3 ~~(IV) Payments made for the costs of editing, post-production,~~
4 ~~music, and related services;~~

5 ~~(V) Payments made for the costs of renting facilities and~~
6 ~~equipment, including location fees, leasing vehicles, and providing food~~
7 ~~and lodging to people working on the film production;~~

8 ~~(VI) Payments for airfare purchased through a Colorado-based~~
9 ~~travel agency or company;~~

10 ~~(VII) Payments for insurance and bonding purchased through a~~
11 ~~Colorado-based insurance agent; and~~

12 ~~(VIII) Payments for other direct costs incurred by the film~~
13 ~~production company that are deemed appropriate by the commission.~~

14 ~~(e) "Qualified payroll expenditure" means an expenditure made~~
15 ~~by a production company to pay the salaries of actors, management, and~~
16 ~~crew who participate in the film production activities and who are~~
17 ~~Colorado residents.~~

18 ~~(2) Subject to the provisions of this section, on or after June 5,~~
19 ~~2006, any production company that spends at least seventy-five percent~~
20 ~~of its production expenditures for a film on qualified local expenditures~~
21 ~~and at least seventy-five percent of its payroll expenditures for a film on~~
22 ~~qualified local payroll expenditures shall be allowed to claim a~~
23 ~~performance-based incentive in an amount as follows:~~

24 ~~(a) For a production company that originates the film production~~
25 ~~in Colorado, an amount equal to ten percent of the total amount of the~~
26 ~~production company's qualified local expenditures and qualified payroll~~
27 ~~expenditures if the total of such expenditures equals or exceeds one~~

1 hundred thousand dollars; and

2 (b) For a production company that does not originate the film
3 production activities in Colorado, an amount equal to ten percent of the
4 total amount of the production company's qualified local expenditures and
5 qualified payroll expenditures if the total of such expenditures equals or
6 exceeds one million dollars.

7 (3) (a) In order for a production company to claim a
8 performance-based incentive for film production activities in Colorado
9 pursuant to this section, the production company shall apply to the
10 commission, in a manner to be determined by the commission, prior to
11 beginning production activities in the state. The application shall include
12 a statement of intent by the production company to produce a film in
13 Colorado for which the production company will be eligible to receive the
14 incentive. The production company shall submit, in conjunction with the
15 application, any documentation necessary to demonstrate that the
16 production company's projected qualified local expenditures and qualified
17 payroll expenditures will satisfy the expenditures specified in paragraph
18 (a) or (b) of subsection (2) of this section, as applicable.

19 (b) The commission shall review each application submitted by a
20 production company before the production company begins work on a
21 film in Colorado. Based on the information provided in the production
22 company's application, the commission shall make an initial
23 determination of whether the production company will be eligible to
24 receive a performance-based incentive and estimate the amount of the
25 incentive that will be due to the production company. The commission
26 shall grant conditional written approval to every production company that,
27 based on the information provided by the production company, will

1 satisfy the requirements of this section and be eligible to claim an
2 incentive.

3 (c) Upon completion of production activities in Colorado, a
4 production company that received conditional approval for a
5 performance-based incentive from the commission shall submit financial
6 documents to the commission that detail the expenses incurred in the
7 course of the film production activities in Colorado, along with a signed
8 affidavit stating that the financial documents are an accurate accounting
9 of the production company's qualified local expenditures and qualified
10 payroll expenditures. If the amount of the production company's actual
11 qualified local expenditures and qualified payroll expenditures equal or
12 exceed the production company's projected qualified local expenditures
13 and qualified payroll expenditures submitted to the commission pursuant
14 to paragraph (a) of this subsection (3), the commission shall issue an
15 incentive to the production company.

16 (d) The commission shall develop procedures for the
17 administration of this section, including application guidelines for
18 production companies applying to receive a performance-based incentive
19 and for the commission to issue payment of the incentives pursuant to this
20 section.

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

1 TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND CREATED IN
2 SECTION 24-48.5-203.

3 (b) The commission may annually withhold a portion of the
4 moneys appropriated for the purposes of this section to offset the direct
5 costs incurred in administering the incentive program. The amount
6 withheld by the commission in any fiscal year shall not exceed two and
7 one-half percent of the amount appropriated for the purposes of this
8 section in that fiscal year.

9 (c) The total amount of performance-based incentives that the
10 commission issues pursuant to this section in any fiscal year shall not
11 exceed the amount appropriated to the commission to be used for the
12 purposes of this section in the applicable fiscal year. If the commission
13 receives applications for incentives that exceed the amount appropriated
14 by the general assembly for the fiscal year, the commission shall issue
15 incentives to production companies in the order in which the commission
16 received applications until the amount appropriated has been expended.

17 (d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JANUARY 1,
18 2010.

19 (5) The commission shall include data regarding the number of
20 production companies that claimed the performance-based incentive
21 pursuant to this section and the total amount of all incentives claimed
22 during the most recent fiscal year for which such information is available
23 in an annual report to the general assembly.

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

27 (I) Moneys transferred to the fund in accordance with section

1 12-47.1-701 (4) (a), C.R.S.; and

2 (H) Any moneys appropriated to the fund by the general assembly.

3 (b) The moneys in the fund shall be annually appropriated by the
4 general assembly for the purposes of this section. All moneys not
5 expended or encumbered, and all interest earned on the investment or
6 deposit of moneys in the fund, shall remain in the fund and shall not
7 revert to the general fund at the end of any fiscal year. Any moneys not
8 expended or encumbered from any appropriation at the end of any fiscal
9 year shall remain available for expenditure in the next fiscal year without
10 further appropriation.

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13 **SECTION 4. Adjustments to the 2009 long bill.** For the
14 implementation of this act, the appropriation made in the annual general
15 appropriation act for the fiscal year beginning July 1, 2009, for the
16 department of governor – lieutenant governor – state planning and
17 budgeting, division of economic development programs, for film
18 incentives, from the film incentives cash fund, is decreased by four
19 hundred eighty thousand eleven dollars (\$480,011) cash funds.

20 **SECTION 5. Effective date.** This act shall take effect July 1,
21 2009.

22 [REDACTED]

23 **SECTION 6. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.