

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

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 **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  
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.

---

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 BY THE GENERAL ASSEMBLY TO THE OFFICE FOR THE  
15 OPERATION OF THE OFFICE AND FOR THE PERFORMANCE-BASED INCENTIVE  
16 FOR FILM PRODUCTION IN COLORADO AS SPECIFIED IN SUBSECTION (1) OF  
17 THIS SECTION.

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

27 (c) ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL

1 INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE  
2 FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE  
3 GENERAL FUND AT THE END OF ANY FISCAL YEAR.

4 **SECTION 2.** 12-47.1-701 (4) (a) (V) (A), (4) (a) (V) (B), and  
5 (4) (a) (V) (C), Colorado Revised Statutes, are amended to read:

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

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

1 OPERATIONAL ACCOUNT CASH FUND CREATED IN SECTION 24-48.5-203,  
2 C.R.S. For purposes of the transfers occurring at the end of the 2006-07  
3 fiscal year and each fiscal year thereafter, no later than June 1, 2007, and  
4 no later than June 1 of each calendar year thereafter, the executive  
5 director shall adjust the dollar amounts specified in this sub-subparagraph  
6 (A) to reflect the percentage change in the consumer price index for the  
7 Denver metropolitan area. As used in this sub-subparagraph (A),  
8 "percentage change in the consumer price index for the Denver  
9 metropolitan area" means the percentage change between the two  
10 published annual estimates of the consumer price index for the  
11 Denver-Boulder-Greeley combined statistical area for all urban  
12 consumers, all goods, as defined and officially reported by the bureau of  
13 labor statistics in the United States department of labor for the two  
14 calendar years immediately preceding the calendar year in which the  
15 adjustment is made.

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

27 (C) If the joint budget committee, pursuant to sub-subparagraph

1 (B) of this subparagraph (V), does not determine the amount of limited  
2 gaming fund moneys, if any, to be transferred to the film incentives cash  
3 fund OR THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA  
4 OPERATIONAL ACCOUNT CASH FUND specified in sub-subparagraph (A) of  
5 this subparagraph (V) and if, based on the June revenue forecast prepared  
6 by the legislative council, the state treasurer determines that the amount  
7 of general fund revenues for the fiscal year in which the forecast is  
8 prepared will be insufficient to allow the maximum amount of general  
9 fund appropriations permitted by section 24-75-201.1 (1) (a) (II), C.R.S.,  
10 to be made for that fiscal year, the state treasurer shall transfer to the  
11 general fund from the moneys that would otherwise be transferred to the  
12 film incentives cash fund OR THE COLORADO OFFICE OF FILM, TELEVISION,  
13 AND MEDIA OPERATIONAL ACCOUNT CASH FUND pursuant to  
14 sub-subparagraph (A) of this subparagraph (V) at the end of the fiscal  
15 year an amount equal to the lesser of the full amount that would otherwise  
16 be transferred to the film incentives cash fund OR THE COLORADO OFFICE  
17 OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND or  
18 the amount necessary to allow the maximum amount of general fund  
19 appropriations to be made for the fiscal year. Any reduction in the  
20 amount transferred to the film incentives cash fund OR THE COLORADO  
21 OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH  
22 FUND required by this sub-subparagraph (C) and the amounts transferred  
23 to the state council on the arts cash fund, the new jobs incentives cash  
24 fund, and the Colorado travel and tourism promotion fund required by  
25 sub-subparagraph (B) of subparagraph (IV) of this paragraph (a) shall be  
26 pro-rated based on the amounts otherwise required to be transferred to  
27 said funds pursuant to sub-subparagraph (A) of this subparagraph (V) and

1 sub-subparagraph (A) of subparagraph (IV) of this paragraph (a).

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

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

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

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

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

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

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

27 (II) Payments made for the costs of set construction and

1 operations, wardrobe, accessories, and related services;

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

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

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

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

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

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

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

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

25 (a) For a production company that originates the film production  
26 in Colorado, an amount equal to ten percent of the total amount of the  
27 production company's qualified local expenditures and qualified payroll

1 expenditures if the total of such expenditures equals or exceeds one  
2 hundred thousand dollars; and

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

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

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

1 based on the information provided by the production company, will  
2 satisfy the requirements of this section and be eligible to claim an  
3 incentive.

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

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

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

1 JULY 1, 2009, SHALL BE TRANSFERRED TO THE COLORADO OFFICE OF FILM,  
2 TELEVISION, AND MEDIA OPERATIONAL ACCOUNT CASH FUND CREATED IN  
3 SECTION 24-48.5-203.

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

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

18 (d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JANUARY 1,  
19 2010.

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

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

1 ~~(I) Moneys transferred to the fund in accordance with section~~  
2 ~~12-47.1-701 (4) (a), C.R.S.; and~~

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

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

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


13 **bill.** (1) In addition to any other appropriation, there is hereby  
14 appropriated, out of any moneys in the Colorado office of film, television,  
15 and media operational account cash fund created in section 24-48.5-203  
16 (1), Colorado Revised Statutes, not otherwise appropriated, to the  
17 department of governor – lieutenant governor – state planning and  
18 budgeting, for allocation to the economic development programs division,  
19 for Colorado office of film, television, and media, for the fiscal year  
20 beginning July 1, 2009, the sum of five hundred eighty thousand eight  
21 dollars (\$580,008) cash funds and 6.0 FTE, or so much thereof as may be  
22 necessary, for the implementation of this act.

23 ==

24 (2) For the implementation of this act, the appropriation made in  
25 the annual general appropriation act for the fiscal year beginning July 1,  
26 2009, for the department of governor – lieutenant governor – state  
27 planning and budgeting, division of economic development programs, for

1 film incentives, from the film incentives cash fund, is decreased by four  
2 hundred eighty thousand eleven dollars (\$480,011) cash funds.

3 **SECTION 5. Effective date.** This act shall take effect July 1,  
4 2009.

5   
6 **SECTION 6. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.