

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 27, 2009
Date

Committee on State, Veterans & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB09-1010 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 4, line 20, strike "A DEPUTY DIRECTOR, IF
- 2 DEEMED";
- 3 line 21, strike "NECESSARY BY THE DIRECTOR, AND".
- 4 Page 5, after line 23, insert the following:
 - 5 "(g) ADMINISTER THE PERFORMANCE-BASED INCENTIVE FOR FILM
 - 6 PRODUCTION IN COLORADO AS SPECIFIED IN SECTION 24-48.5-203;"
- 7 Reletter succeeding paragraphs accordingly.
- 8 Page 6, line 3, strike "GOVERNOR." and substitute "DIRECTOR OF THE
- 9 OFFICE OF ECONOMIC DEVELOPMENT.";
- 10 line 4, strike "**Colorado**" and substitute "**Performance-based incentive**
- 11 **for film production in Colorado - Colorado**";
- 12 line 5, strike "(1) THERE IS" and substitute the following:
 - 13 "(1) SUBJECT TO THE PROVISIONS OF THIS SECTION, ON OR AFTER
 - 14 JULY 1, 2009, ANY PRODUCTION COMPANY THAT SPENDS AT LEAST
 - 15 SEVENTY-FIVE PERCENT OF ITS PRODUCTION EXPENDITURES FOR A FILM ON
 - 16 QUALIFIED LOCAL EXPENDITURES AND AT LEAST SEVENTY-FIVE PERCENT

1 OF ITS PAYROLL EXPENDITURES FOR A FILM ON QUALIFIED LOCAL PAYROLL
2 EXPENDITURES SHALL BE ALLOWED TO CLAIM A PERFORMANCE-BASED
3 INCENTIVE IN AN AMOUNT AS FOLLOWS:

4 (a) FOR A PRODUCTION COMPANY THAT ORIGINATES THE FILM
5 PRODUCTION IN COLORADO, AN AMOUNT EQUAL TO TEN PERCENT OF THE
6 TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL
7 EXPENDITURES AND QUALIFIED PAYROLL EXPENDITURES IF THE TOTAL OF
8 SUCH EXPENDITURES EQUALS OR EXCEEDS ONE HUNDRED THOUSAND
9 DOLLARS; AND

10 (b) FOR A PRODUCTION COMPANY THAT DOES NOT ORIGINATE THE
11 FILM PRODUCTION ACTIVITIES IN COLORADO, AN AMOUNT EQUAL TO TEN
12 PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION COMPANY'S
13 QUALIFIED LOCAL EXPENDITURES AND QUALIFIED PAYROLL EXPENDITURES
14 IF THE TOTAL OF SUCH EXPENDITURES EQUALS OR EXCEEDS ONE MILLION
15 DOLLARS.

16 (2) (a) IN ORDER FOR A PRODUCTION COMPANY TO CLAIM A
17 PERFORMANCE-BASED INCENTIVE FOR FILM PRODUCTION ACTIVITIES IN
18 COLORADO PURSUANT TO THIS SECTION, THE PRODUCTION COMPANY
19 SHALL APPLY TO THE OFFICE, IN A MANNER TO BE DETERMINED BY THE
20 OFFICE, PRIOR TO BEGINNING PRODUCTION ACTIVITIES IN THE STATE. THE
21 APPLICATION SHALL INCLUDE A STATEMENT OF INTENT BY THE
22 PRODUCTION COMPANY TO PRODUCE A FILM IN COLORADO FOR WHICH THE
23 PRODUCTION COMPANY WILL BE ELIGIBLE TO RECEIVE THE INCENTIVE.
24 THE PRODUCTION COMPANY SHALL SUBMIT, IN CONJUNCTION WITH THE
25 APPLICATION, ANY DOCUMENTATION NECESSARY TO DEMONSTRATE THAT
26 THE PRODUCTION COMPANY'S PROJECTED QUALIFIED LOCAL EXPENDITURES
27 AND QUALIFIED PAYROLL EXPENDITURES WILL SATISFY THE EXPENDITURES
28 SPECIFIED IN PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF THIS SECTION,
29 AS APPLICABLE.

30 (b) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY
31 A PRODUCTION COMPANY BEFORE THE PRODUCTION COMPANY BEGINS
32 WORK ON A FILM IN COLORADO. BASED ON THE INFORMATION PROVIDED
33 IN THE PRODUCTION COMPANY'S APPLICATION, THE OFFICE SHALL MAKE AN
34 INITIAL DETERMINATION OF WHETHER THE PRODUCTION COMPANY WILL BE
35 ELIGIBLE TO RECEIVE A PERFORMANCE-BASED INCENTIVE AND ESTIMATE
36 THE AMOUNT OF THE INCENTIVE THAT WILL BE DUE TO THE PRODUCTION
37 COMPANY. THE OFFICE SHALL GRANT CONDITIONAL WRITTEN APPROVAL

1 TO EVERY PRODUCTION COMPANY THAT, BASED ON THE INFORMATION
2 PROVIDED BY THE PRODUCTION COMPANY, WILL SATISFY THE
3 REQUIREMENTS OF THIS SECTION AND BE ELIGIBLE TO CLAIM AN
4 INCENTIVE.

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

20 (d) THE OFFICE SHALL DEVELOP PROCEDURES FOR THE
21 ADMINISTRATION OF THIS SECTION, INCLUDING APPLICATION GUIDELINES
22 FOR PRODUCTION COMPANIES APPLYING TO RECEIVE A
23 PERFORMANCE-BASED INCENTIVE AND FOR THE OFFICE TO ISSUE PAYMENT
24 OF THE INCENTIVES PURSUANT TO THIS SECTION.

25 (3) THE OFFICE SHALL INCLUDE DATA REGARDING THE NUMBER OF
26 PRODUCTION COMPANIES THAT CLAIMED THE PERFORMANCE-BASED
27 INCENTIVE PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF ALL
28 INCENTIVES CLAIMED DURING THE MOST RECENT FISCAL YEAR FOR WHICH
29 SUCH INFORMATION IS AVAILABLE IN AN ANNUAL REPORT TO THE GENERAL
30 ASSEMBLY.

31 (4) THERE IS";

32 line 21, strike "(2)" and substitute "(5) (a)" and strike "ANNUALLY" and
33 substitute "CONTINUOUSLY";

34 strike line 23 and substitute the following:

1 "OFFICE AND FOR THE PERFORMANCE-BASED INCENTIVE FOR FILM
2 PRODUCTION IN COLORADO AS SPECIFIED IN SUBSECTION (1) OF THIS
3 SECTION.

4 (b) THE TOTAL AMOUNT OF PERFORMANCE-BASED INCENTIVES
5 THAT THE OFFICE ISSUES PURSUANT TO THIS SECTION IN ANY FISCAL YEAR
6 SHALL NOT EXCEED THE AMOUNT APPROPRIATED TO THE OFFICE TO BE
7 USED FOR THE PURPOSES OF THIS SECTION IN THE APPLICABLE FISCAL
8 YEAR. IF THE OFFICE RECEIVES APPLICATIONS FOR INCENTIVES THAT
9 EXCEED THE AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE
10 FISCAL YEAR, THE OFFICE SHALL ISSUE INCENTIVES TO PRODUCTION
11 COMPANIES IN THE ORDER IN WHICH THE COMMISSION RECEIVED
12 APPLICATIONS UNTIL THE AMOUNT APPROPRIATED HAS BEEN EXPENDED.

13 (c) ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL".

14 Page 9, strike lines 25 and 26 and substitute the following:

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

17 Page 10, strike lines 1 and 2 and substitute the following:

18 "**in Colorado - film incentives cash fund - definitions - repeal.** (1) ~~As~~
19 ~~used in this section, unless the context otherwise requires:~~

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

25 (b) ~~"Production activities" means the shooting of a film, support~~
26 ~~activities related to such shooting, and any preshooting or postshooting~~
27 ~~activities that are necessary to produce a finished film, including but not~~
28 ~~limited to editing and the creation of sets, props, costumes, and special~~
29 ~~effects.~~

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

1 ~~(d) "Qualified local expenditure" means a payment made by a~~
2 ~~production company in Colorado to a business in Colorado in connection~~
3 ~~with the production of a film that the production company is producing~~
4 ~~in Colorado. "Qualified local expenditure" shall include, but shall not be~~
5 ~~limited to:~~

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

8 ~~(H) Payments made for the costs of set construction and~~
9 ~~operations, wardrobe, accessories, and related services;~~

10 ~~(HH) Payments made for the costs of photography, sound~~
11 ~~synchronization, lighting, and related services;~~

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

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

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

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

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

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

27 ~~(2) Subject to the provisions of this section, on or after June 5,~~
28 ~~2006, any production company that spends at least seventy-five percent~~
29 ~~of its production expenditures for a film on qualified local expenditures~~
30 ~~and at least seventy-five percent of its payroll expenditures for a film on~~
31 ~~qualified local payroll expenditures shall be allowed to claim a~~

1 ~~performance-based incentive in an amount as follows:~~

2 ~~(a) For a production company that originates the film production~~
3 ~~in Colorado, an amount equal to ten percent of the total amount of the~~
4 ~~production company's qualified local expenditures and qualified payroll~~
5 ~~expenditures if the total of such expenditures equals or exceeds one~~
6 ~~hundred thousand dollars; and~~

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

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

24 ~~(b) The commission shall review each application submitted by a~~
25 ~~production company before the production company begins work on a~~
26 ~~film in Colorado. Based on the information provided in the production~~
27 ~~company's application, the commission shall make an initial~~
28 ~~determination of whether the production company will be eligible to~~
29 ~~receive a performance-based incentive and estimate the amount of the~~
30 ~~incentive that will be due to the production company. The commission~~
31 ~~shall grant conditional written approval to every production company that,~~
32 ~~based on the information provided by the production company, will~~
33 ~~satisfy the requirements of this section and be eligible to claim an~~
34 ~~incentive.~~

35 ~~(c) Upon completion of production activities in Colorado, a~~
36 ~~production company that received conditional approval for a~~

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

12 (d) ~~The commission shall develop procedures for the~~
13 ~~administration of this section, including application guidelines for~~
14 ~~production companies applying to receive a performance-based incentive~~
15 ~~and for the commission to issue payment of the incentives pursuant to this~~
16 ~~section.~~

17 (4) (a) For the 2006-07, 2007-08, AND 2008-09 fiscal year and for
18 each";

19 strike lines 11 through 20 and substitute the following:

20 "(b) ~~The commission may annually withhold a portion of the~~
21 ~~moneys appropriated for the purposes of this section to offset the direct~~
22 ~~costs incurred in administering the incentive program. The amount~~
23 ~~withheld by the commission in any fiscal year shall not exceed two and~~
24 ~~one-half percent of the amount appropriated for the purposes of this~~
25 ~~section in that fiscal year.~~

26 (c) ~~The total amount of performance-based incentives that the~~
27 ~~commission issues pursuant to this section in any fiscal year shall not~~
28 ~~exceed the amount appropriated to the commission to be used for the~~
29 ~~purposes of this section in the applicable fiscal year. If the commission~~
30 ~~receives applications for incentives that exceed the amount appropriated~~
31 ~~by the general assembly for the fiscal year, the commission shall issue~~
32 ~~incentives to production companies in the order in which the commission~~
33 ~~received applications until the amount appropriated has been expended.~~

34 (d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JANUARY 1,
35 2010.

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

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

9 ~~(I) Moneys transferred to the fund in accordance with section~~
10 ~~12-47.1-701 (4) (a), C.R.S.; and~~

11 ~~(II) Any moneys appropriated to the fund by the general assembly.~~

12 ~~(b) The moneys in the fund shall be annually appropriated by the~~
13 ~~general assembly for the purposes of this section. All moneys not~~
14 ~~expended or encumbered, and all interest earned on the investment or~~
15 ~~deposit of moneys in the fund, shall remain in the fund and shall not~~
16 ~~revert to the general fund at the end of any fiscal year. Any moneys not~~
17 ~~expended or encumbered from any appropriation at the end of any fiscal~~
18 ~~year shall remain available for expenditure in the next fiscal year without~~
19 ~~further appropriation."~~

20 Page 11, strike lines 5 through 13;

21 line 14, strike "(3)" and substitute "(2)";

22 after line 19, insert the following:

23 "**SECTION 5. Effective date.** This act shall take effect July 1,
24 2009."

25 Renumber succeeding section accordingly.

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