

**Second 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. 10-0669.01 Nicole Myers

SENATE BILL 10-158

SENATE SPONSORSHIP

Newell, Bacon, Carroll M., Gibbs, Heath, Hodge, Hudak, Johnston, Keller, Kester, Lundberg, Morse, Romer, Sandoval, Schwartz, Spence, Steadman, Tapia, Tochtrop, White, Whitehead, Williams

HOUSE SPONSORSHIP

Rice, Ryden

Senate Committees

Business, Labor and Technology

House Committees

Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE CREATIVE INDUSTRIES DIVISION**
102 **WITHIN THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT,**
103 **AND, IN CONNECTION THEREWITH, RECODIFYING THE**
104 **STATUTORY PROVISIONS THAT CREATE THE COLORADO OFFICE**
105 **OF FILM, TELEVISION, AND MEDIA, THE COUNCIL ON CREATIVE**
106 **INDUSTRIES, AND THE ART IN PUBLIC PLACES PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

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
Am ended 2nd Reading
March 15, 2010

SENATE
3rd Reading Unam ended
February 26, 2010

SENATE
2nd Reading Unam ended
February 24, 2010

1 PART 3 AS THE "DIVISION". THE DIRECTOR OF THE DIVISION SHALL BE THE
2 PERSON WHO IS APPOINTED DIRECTOR OF THE COUNCIL ON CREATIVE
3 INDUSTRIES BY THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC
4 DEVELOPMENT. THE DIVISION SHALL BE COMPRISED OF THE OFFICE OF
5 FILM, TELEVISION, AND MEDIA, THE COUNCIL ON CREATIVE INDUSTRIES,
6 AND THE ART IN PUBLIC PLACES PROGRAM, AND THE DIRECTOR OF THE
7 DIVISION SHALL OVERSEE SUCH OFFICE, COUNCIL, AND PROGRAM.

8 (2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
9 CREATIVE INDUSTRIES CASH FUND, REFERRED TO IN THIS SECTION AS THE
10 "FUND". THE FUND SHALL CONSIST OF:

11 (I) (A) MONEYS TRANSFERRED TO THE FUND PURSUANT TO
12 SECTIONS 24-48.5-308 (3), 24-48.5-311 (5) (d), AND 24-48.5-312 (7) (b).

13 (B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE JULY 1, 2011.

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

16 (III) MONEYS CREDITED TO THE FUND BY THE STATE TREASURER
17 FOR PURPOSES OF THE ART IN PUBLIC PLACES PROGRAM PURSUANT TO
18 SECTION 24-48.5-312 (7) (b.5);

19 (IV) MONEYS APPROPRIATED TO THE FUND BY THE GENERAL
20 ASSEMBLY; AND

21 (V) ANY GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC
22 SOURCES THAT THE DIVISION IS HEREBY AUTHORIZED TO SEEK AND
23 ACCEPT.

24 (b) THE MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED
25 TO THE DIVISION FOR THE OPERATION OF THE DIVISION, AND FOR THE
26 FOLLOWING:

27 (I) FOR PURPOSES OF THE COUNCIL ON CREATIVE INDUSTRIES,

1 INCLUDING THE ADMINISTRATION OF THE COUNCIL;

2 (II) FOR THE OPERATION OF THE COLORADO OFFICE OF FILM,
3 TELEVISION, AND MEDIA AND FOR THE PERFORMANCE-BASED INCENTIVE
4 FOR FILM PRODUCTION IN COLORADO AS SPECIFIED IN SECTION
5 24-48.5-311 (1); AND

6 (III) FOR THE PURCHASE OF WORKS OF ART PURSUANT TO THE ART
7 IN PUBLIC PLACES PROGRAM, TAKING INTO CONSIDERATION THE ARTIST'S
8 PRELIMINARY SITE VISIT, THE DESIGN FEE, THE TOTAL COSTS OF
9 CONSTRUCTION AND INSTALLATION OF THE WORK OF ART, JURY EXPENSES,
10 AND PROGRAM ADMINISTRATION IN COMPLIANCE WITH THE PROVISIONS OF
11 SECTION 24-48.5-312 (6).

12 (c) ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL
13 INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE
14 FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE
15 GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.
16 ANY MONEYS NOT EXPENDED OR ENCUMBERED FROM ANY APPROPRIATION
17 AT THE END OF ANY FISCAL YEAR SHALL REMAIN AVAILABLE FOR
18 EXPENDITURE IN THE NEXT FISCAL YEAR WITHOUT FURTHER
19 APPROPRIATION.

20 **24-48.5-302. [Formerly 24-48.8-102] Council on creative**
21 **industries - legislative declaration.** (1) The general assembly finds and
22 declares:

23 (a) That encouragement and support of the arts and humanities,
24 while primarily a matter for private and local initiative, is also an
25 appropriate matter of concern to the state government;

26 (b) That many of our citizens lack the opportunity to view, enjoy,
27 or participate in living theatrical performances, musical concerts, operas,

1 dance and ballet recitals, art exhibits, examples of fine architecture, and
2 the performing and visual arts generally;

3 (c) That, with increasing leisure time, the practice and enjoyment
4 of the arts and humanities are of increasing importance;

5 (d) That many of our citizens possess talents of an artistic and
6 creative nature ~~which~~ THAT cannot be utilized to their fullest extent under
7 existing conditions;

8 (e) That the general welfare of the people of the state will be
9 promoted by giving further recognition to the arts and humanities as a
10 vital part of our culture and heritage and as an important means of
11 expanding the scope of our community life;

12 (f) That it is desirable to establish a ~~state~~ council on ~~the arts~~
13 CREATIVE INDUSTRIES and to provide such recognition and assistance as
14 will encourage and promote the state's artistic and cultural progress;

15 (g) That it is the policy of the state to cooperate with private
16 patrons, private and public institutions, and professional and
17 nonprofessional organizations concerned with the arts and humanities to
18 ~~insure~~ ENSURE that the role of the arts and humanities in the life of our
19 communities will continue to grow and to play an ever more significant
20 part in the welfare and educational experience of our citizens and to
21 establish the paramount position of this state in the nation and in the
22 world as a cultural center;

23 (h) That all activities undertaken by the state in carrying out the
24 policy set out in this section shall be directed toward encouraging and
25 assisting, rather than in any way limiting, the freedom of artistic
26 expression ~~which~~ THAT is essential for the well-being of the arts and
27 humanities.

1 **24-48.5-303. [Formerly 24-48.8-103] Council on creative**
2 **industries - establishment of council - members - term of office - chair**
3 **- compensation.** (1) (a) There is hereby established within the

4 ~~department of higher education~~ DIVISION a state council on the arts
5 CREATIVE INDUSTRIES, referred to in this ~~article~~ PART 3 as the "council".
6 ~~The council shall remain within the department of higher education~~
7 ~~through June 30, 2006.~~ The council shall consist of eleven members,
8 including the ~~chairman~~ CHAIR, to be appointed by the governor. The
9 members of the council shall be broadly representative of the major fields
10 of the arts and humanities AND RELATED CREATIVE INDUSTRIES and shall
11 be appointed from among private citizens who are widely known for their
12 competence and experience in connection with the arts and humanities
13 AND RELATED CREATIVE INDUSTRIES, as well as their knowledge of
14 community and state interests. In making these appointments, the
15 governor shall seek and consider those recommended for membership by
16 persons or organizations involved in civic, educational, business, labor,
17 professional, cultural, ethnic, and performing and creative arts fields, as
18 well as those with knowledge of community and state interests. At least
19 one such person from each area designated shall be a member of the
20 council, the membership to include both men and women.

21 (b) (I) ~~On and after July 1, 2006, the council and the powers,~~
22 ~~duties, and functions of the council are transferred from the department~~
23 ~~of higher education to the Colorado office of economic development.~~

24 (H) ~~On and after July 1, 2006, employees of the council whose~~
25 ~~employment is deemed necessary by the director of the Colorado office~~
26 ~~of economic development shall become employees of the Colorado office~~
27 ~~of economic development. Any employees transferred to the Colorado~~

1 office of economic development who are classified employees in the state
2 personnel system shall retain all rights to the personnel system and
3 retirement benefits pursuant to the laws of this state, and their services
4 shall be deemed to have been continuous. All transfers and any
5 abolishment of positions in the state personnel system shall be made and
6 processed in accordance with state personnel system laws and regulations.

7 (HH) On and after July 1, 2006, all items of property, real and
8 personal, including office furniture and fixtures, books, documents, and
9 records of the council, are transferred to the Colorado office of economic
10 development and become property thereof.

11 (2) On and after July 1, 1990, members appointed to the council,
12 except the ~~chairperson~~ CHAIR, shall hold office for terms of three years,
13 commencing on July 1 of the year of appointment. Members of the
14 council, except the ~~chairperson~~ CHAIR, shall not be eligible to serve for
15 more than two consecutive terms nor be eligible for reappointment to the
16 council during the three-year period following the expiration of the
17 second of two consecutive terms. Members of the council shall hold
18 office until the expiration of the appointed terms or until successors are
19 duly appointed. Any vacancy occurring on the council other than by
20 expiration of term shall be filled by the governor by the appointment of
21 a qualified person for the unexpired term.

22 (3) The governor shall appoint a ~~chairperson~~ CHAIR of the council
23 who is a person widely recognized for his or her knowledge, experience,
24 and interest in the arts and humanities, as well as his or her knowledge of
25 community and state interests. ~~He or she~~ THE CHAIR shall serve at the
26 pleasure of the ~~appointing~~ governor, but not longer than six consecutive
27 years, and shall not be eligible for reappointment during the three-year

1 period following the expiration of such six-year period. ~~He or she~~ THE
2 CHAIR shall advise the governor with respect to the development in the
3 arts and humanities in the state of Colorado. If any vacancy occurs in the
4 office of ~~chairperson~~ THE CHAIR, the governor shall fill within sixty days
5 the vacancy by the appointment of a qualified person in the same manner
6 in which the original appointment was made.

7 (4) Members of the council shall serve without compensation, but
8 each member shall be reimbursed for his or her necessary traveling and
9 other expenses incurred in the performance of his or her official duties.

10 **24-48.5-304. [Formerly 24-48.8-104] Council on creative**
11 **industries - meetings of council - quorum.** The council shall meet at
12 the call of the ~~chairperson~~ CHAIR, but not less than twice during each
13 calendar year. Five members of the council shall constitute a quorum.
14 All meetings of the council shall be open and public, and all persons shall
15 be permitted to attend any meeting of the council. The ~~chairperson~~ CHAIR
16 shall vote only in case of a tie on any question voted on by the council.

17 **24-48.5-305. [Formerly 24-48.8-106] Council on creative**
18 **industries - powers of the council.** (1) The council has the powers
19 necessary to carry out the duties imposed upon it by this ~~article~~ PART 3,
20 including, but not limited to, the power:

21 (a) To employ such administrative, technical, and other personnel,
22 subject to the constitution and state personnel system laws of this state,
23 as may be necessary for the performance of its powers and duties;

24 (b) To hold hearings, make and sign any agreements, and perform
25 any acts ~~which~~ THAT may be necessary, desirable, or proper to carry out
26 the purposes of ~~this article~~ THE COUNCIL;

27 (c) To request from any department, division, board, bureau,

1 commission, or other agency of the state such reasonable assistance and
2 data as will enable it properly to carry out its powers and duties under this
3 ~~article~~ PART 3;

4 (d) To appoint such advisory committees as it deems advisable
5 and necessary to the carrying out of its powers and duties under this
6 ~~article~~ PART 3;

7 (e) To accept, on behalf of the state of Colorado, and expend any
8 federal funds granted by act of congress or by executive order for all or
9 any of the purposes of ~~this article~~ THE COUNCIL; except that the council
10 may expend such funds only upon appropriation by the general assembly
11 if the federal funds require matching state contributions or capital outlay
12 or create a commitment for future state funding;

13 (f) To accept any gifts, GRANTS, donations, or bequests for all or
14 any of the purposes of ~~this article~~ THE COUNCIL;

15 (g) To propose methods AND PROCESSES to encourage private
16 ~~initiative in~~ AND PUBLIC INITIATIVES THAT RECOGNIZE AND ENHANCE THE
17 ROLE THAT the arts and humanities PLAY IN CREATIVE INDUSTRIES;

18 (h) To advise and consult with national foundations and other
19 local, state, and federal departments and agencies on methods by which
20 to coordinate and assist existing resources and facilities, with the purpose
21 of fostering artistic and cultural endeavors toward the use of the arts and
22 humanities both nationally and internationally, in the best interest of
23 Colorado.

24 **24-48.5-306. [Formerly 24-48.8-107] Council on creative**
25 **industries - duties of the council.** (1) The duties of the council shall be:

26 (a) To stimulate and encourage throughout the state the study and
27 development of the arts and humanities, as well as public interest and

1 participation therein;

2 (b) To take such steps as may be necessary and appropriate to
3 encourage public interest in the cultural heritage of our state and to
4 expand the state's cultural resources;

5 (c) To encourage and assist freedom of artistic expression
6 essential for the well-being of the arts and humanities;

7 (d) To assist the communities and organizations within the state
8 in originating and creating their own cultural and artistic programs;

9 (e) To make such surveys as may be deemed advisable of public
10 and private institutions engaged within the state in artistic and cultural
11 activities, including, but not limited to, humanities, music, theater, dance,
12 painting, sculpture, photography, architecture, and allied arts and crafts,
13 and to make recommendations concerning the appropriate methods to
14 encourage participation in and appreciation of the arts and humanities in
15 order to meet the legitimate needs and aspirations of persons in all parts
16 of the state;

17 (f) To submit a report to the governor not later than ninety days
18 after the end of each fiscal year and at such other times as the governor
19 requests or the council deems appropriate.

20 **24-48.5-307. [Formerly 24-48.8-108] Council on creative**
21 **industries - interference by council prohibited.** In carrying out its
22 duties and powers under this ~~article~~ PART 3, the council shall never by
23 action, directly or indirectly, interfere with the freedom of artistic
24 expression of the established or contemplated cultural programs in any
25 local community or institution, nor shall it make any recommendations
26 that might be interpreted to be a form of censorship.

27 **24-48.5-308. [Formerly 24-48.8-109] State council on the arts**

1 **cash fund - creation - repeal.** (1) There is hereby created in the
2 state treasury the state council on the arts cash fund, referred to in this
3 section as the "fund". FOR FISCAL YEARS PRIOR TO THE 2010-11 FISCAL
4 YEAR, the fund shall consist of:

5 (a) Moneys transferred to the fund in accordance with section
6 12-47.1-701 (4) (a), C.R.S.; and

7 (b) Any moneys appropriated to the fund by the general assembly.
8

9 (2) FOR FISCAL YEARS PRIOR TO THE 2010-11 FISCAL YEAR, the
10 moneys in the fund shall be annually appropriated by the general
11 assembly for the purposes of THE COUNCIL, including administration of
12 ~~this article~~ by the council. All moneys not expended or encumbered, and
13 all interest earned on the investment or deposit of moneys in the fund,
14 shall remain in the fund and shall not revert to the general fund at the end
15 of any fiscal year. Any moneys not expended or encumbered from any
16 appropriation at the end of any fiscal year shall remain available for
17 expenditure in the next fiscal year without further appropriation.

18 (3) ANY MONEYS REMAINING IN THE FUND ON JULY 1, 2010, SHALL
19 BE TRANSFERRED TO THE CREATIVE INDUSTRIES CASH FUND CREATED IN
20 SECTION 24-48.5-301.

21 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

22 **24-48.5-309. [Formerly 24-48.5-201] Film, television, and**
23 **media - definitions.** As used in this ~~part 2~~ SECTION AND SECTIONS
24 24-48.5-310 AND 24-48.5-311, unless the context otherwise requires:

25 (1) "Film" means any visual or audiovisual work, including,
26 without limitation, a video game, that contains a series of related images,
27 regardless of the medium by which the work is fixed and from which it

1 can be viewed or reproduced, and that is primarily intended to be either:

2 (a) Commercially exploited by being shown in theaters, licensed
3 for television exhibition, licensed for the home market, or otherwise; or

4 (b) For internal industrial, corporate, or institutional use.

5 (2) "Office" means the Colorado office of film, television, and
6 media created pursuant to ~~section 24-48.5-202~~ SECTION 24-48.5-310.

7 (3) "Production activities" means the shooting of a film, support
8 activities related to such shooting, and any preshooting or postshooting
9 activities that commence on or after July 1, 2009, and that are necessary
10 to produce a finished film, including but not limited to editing and the
11 creation of sets, props, costumes, and special effects.

12 (4) "Production company" means a person, including a
13 corporation or other business entity, that engages in production activities
14 for the purpose of producing all or any portion of a film in Colorado.

15 (5) "Qualified local expenditure" means a payment made by a
16 production company operating in Colorado to a business in Colorado in
17 connection with the production of a film that the production company is
18 producing in Colorado. "Qualified local expenditure" shall include, but
19 need not be limited to:

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

22 (b) Payments made for the costs of set construction and
23 operations, wardrobe, accessories, and related services;

24 (c) Payments made for the costs of photography, sound
25 synchronization, lighting, and related services;

26 (d) Payments made for the costs of editing, post-production,
27 music, and related services;

1 (e) Payments made for the costs of renting facilities and
2 equipment, including location fees, leasing vehicles, and providing food
3 and lodging to people working on the film production;

4 (f) Payments for airfare purchased through a Colorado-based
5 travel agency or company;

6 (g) Payments for insurance and bonding purchased through a
7 Colorado-based insurance agent; and

8 (h) Payments for other direct costs incurred by the film production
9 company that are deemed appropriate by the office.

10 (6) "Qualified payroll expenditure" means an expenditure of up
11 to three million dollars per employee or contractor, made by a production
12 company to pay the salaries of actors, management, and crew, who
13 participate in the film production activities. In order for any salary to be
14 considered a qualified payroll expenditure, all Colorado income taxes
15 shall be withheld and paid either by the production company or the
16 individual. Any expenditures in excess of three million dollars per
17 employee or contractor shall be excluded.

18 **24-48.5-310. [Formerly 24-48.5-202] Film, television, and**
19 **media.** (1) There is hereby created within the ~~Colorado office of~~
20 ~~economic development~~ DIVISION the Colorado office of film, television,
21 and media, the head of which shall be the director of the Colorado office
22 of film, television, and media. The director of the office shall be assisted
23 by a staff to fulfill the office's mission to promote Colorado as a location
24 for making feature films, television shows, television commercials, still
25 photography, music videos, and emerging mass media projects.
26 BEGINNING ON JULY 1, 2010, THE DIRECTOR OF THE OFFICE SHALL REPORT
27 TO THE DIRECTOR OF THE DIVISION.

- 1 (2) The office shall:
- 2 (a) Market Colorado as a destination for making feature films,
3 television shows, television commercials, still photography, music videos,
4 and new media projects;
- 5 (b) Assist production companies that are interested in conducting
6 production activities in Colorado in scouting appropriate locations in the
7 state for the production company's film;
- 8 (c) Assist state and local government agencies and organizations
9 in the creation of permitting criteria for production companies that plan
10 to conduct production activities on state or local government property;
- 11 (d) Assist production companies in determining the appropriate
12 state or local government agencies to contact to apply for a permit to
13 conduct production activities on state or local government property;
- 14 (e) Serve as a general liaison for production companies and assist
15 in coordination efforts among production companies, any state or local
16 government agency, and local businesses and individuals before, during,
17 and after the production company conducts production activities in
18 Colorado;
- 19 (f) Serve as a resource for local governments and communities
20 around Colorado when a production company approaches the local
21 government or community regarding the possibility of conducting
22 production activities on the property of the local government or within the
23 community;
- 24 (g) Administer the performance-based incentive for film
25 production in Colorado as specified in ~~section 24-48.5-203~~ SECTION
26 24-48.5-311;
- 27 (h) Conduct educational seminars to promote the film industry and

1 people working in the film industry in Colorado; and

2 (i) Perform any other duties in furtherance of the office's mission
3 as deemed necessary by the director of the office, ~~and~~ the director of the
4 office of economic development, AND THE DIRECTOR OF THE DIVISION.

5 **24-48.5-311. [Formerly 24-48.5-203] Film, television, and**
6 **media - performance-based incentive for film production in Colorado**
7 **- film, television, and media operational account cash fund - creation**

8 **- repeal.** (1) Subject to the provisions of this section, on or after July 1,
9 2009, any production company that spends at least seventy-five percent
10 of its production expenditures for a film on qualified local expenditures
11 and at least seventy-five percent of its payroll expenditures for a film on
12 qualified local payroll expenditures shall be allowed to claim a
13 performance-based incentive in an amount as follows:

14 (a) For a production company that originates the film production
15 in Colorado, an amount equal to ten percent of the total amount of the
16 production company's qualified local expenditures and qualified payroll
17 expenditures if the total of such expenditures equals or exceeds one
18 hundred thousand dollars; and

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

24 (2) (a) In order for a production company to claim a
25 performance-based incentive for film production activities in Colorado
26 pursuant to this section, the production company shall apply to the office,
27 in a manner to be determined by the office, prior to beginning production

1 activities in the state. The application shall include a statement of intent
2 by the production company to produce a film in Colorado for which the
3 production company will be eligible to receive the incentive. The
4 production company shall submit, in conjunction with the application, any
5 documentation necessary to demonstrate that the production company's
6 projected qualified local expenditures and qualified payroll expenditures
7 will satisfy the expenditures specified in paragraph (a) or (b) of
8 subsection (1) of this section, as applicable.

9 (b) The office shall review each application submitted by a
10 production company before the production company begins work on a
11 film in Colorado. Based on the information provided in the production
12 company's application, the office shall make an initial determination of
13 whether the production company will be eligible to receive a
14 performance-based incentive and estimate the amount of the incentive
15 that will be due to the production company. The ~~office~~ COUNCIL shall
16 grant conditional written approval to every production company that,
17 based on the information provided by the production company, will
18 satisfy the requirements of this section and be eligible to claim an
19 incentive.

20 (c) Upon completion of production activities in Colorado, a
21 production company that received conditional approval for a
22 performance-based incentive from the office shall submit financial
23 documents to the office that detail the expenses incurred in the course of
24 the film production activities in Colorado, along with a signed affidavit
25 stating that the financial documents are an accurate accounting of the
26 production company's qualified local expenditures and qualified payroll
27 expenditures. If the amount of the production company's actual qualified

1 local expenditures and qualified payroll expenditures equal or exceed the
2 production company's projected qualified local expenditures and qualified
3 payroll expenditures submitted to the office pursuant to paragraph (a) of
4 this subsection (2), the office shall issue an incentive to the production
5 company.

6 (d) The office shall develop procedures for the administration of
7 this section, including application guidelines for production companies
8 applying to receive a performance-based incentive and for the office to
9 issue payment of the incentives pursuant to this section.

10 (3) The office shall include data regarding the number of
11 production companies that claimed the performance-based incentive
12 pursuant to this section and the total amount of all incentives claimed
13 during the most recent fiscal year for which such information is available
14 in an annual report to the general assembly.

15 (4) (a) There is hereby created in the state treasury the Colorado
16 office of film, television, and media operational account cash fund,
17 referred to in this section as the "fund". ~~FOR FISCAL YEARS PRIOR TO THE~~
18 ~~2010-11 FISCAL YEAR,~~ the fund shall consist of:

19 ~~(a) (I) Moneys transferred to the fund as specified in section~~
20 ~~24-46-105.8 (4) (a).~~

21 ~~(II) This paragraph (a) is repealed, effective January 1, 2010.~~

22 ~~(b) (I) Moneys transferred to the fund in accordance with section~~
23 ~~12-47.1-701 (4) (a) (V) (A), C.R.S.;~~

24 ~~(c) (II) Any gifts, grants, or donations from private or public~~
25 ~~sources that the office is hereby authorized to seek and accept; and~~

26 ~~(d) (III) Any moneys appropriated to the fund by the general~~
27 ~~assembly.~~

1 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2011

2 (5) (a) FOR FISCAL YEARS PRIOR TO THE 2010-11 FISCAL YEAR, the
3 moneys in the fund shall be continuously appropriated to the office for the
4 operation of the office and for the performance-based incentive for film
5 production in Colorado as specified in subsection (1) of this section.

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

14 (c) All moneys not expended or encumbered, and all interest
15 earned on the investment or deposit of moneys in the fund, shall remain
16 in the fund and shall not revert to the general fund at the end of any fiscal
17 year.

18 (d) ANY MONEYS REMAINING IN THE FUND ON JULY 1, 2010, SHALL
19 BE TRANSFERRED TO THE CREATIVE INDUSTRIES CASH FUND CREATED IN
20 SECTION 24-48.5-301.

21 (e) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2011.

22 (6) THE TOTAL AMOUNT OF PERFORMANCE-BASED INCENTIVES
23 THAT THE OFFICE ISSUES PURSUANT TO THIS SECTION IN ANY FISCAL YEAR
24 SHALL NOT EXCEED THE AMOUNT APPROPRIATED TO THE DIVISION TO BE
25 USED FOR THE PURPOSES OF THIS SECTION IN THE APPLICABLE FISCAL
26 YEAR. IF THE OFFICE RECEIVES APPLICATIONS FOR INCENTIVES THAT
27 EXCEED THE AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE

1 FISCAL YEAR, THE OFFICE SHALL ISSUE INCENTIVES TO PRODUCTION
2 COMPANIES IN THE ORDER IN WHICH THE COMMISSION RECEIVED
3 APPLICATIONS UNTIL THE AMOUNT APPROPRIATED HAS BEEN EXPENDED.

4 **24-48.5-312. [Formerly 24-80.5-101] Art in public places**
5 **program - allocations from capital construction costs - guidelines -**
6 **fund created - definitions - repeal.**

7 (1) (a) The state of Colorado, in
8 recognition of its responsibility to create a more humane environment of
9 distinction, enjoyment, and pride for all of its citizens and in recognition
10 that public art is a resource ~~which~~ THAT stimulates the vitality and
11 economy of the state's communities and ~~which~~ THAT provides opportunity
12 for artists and other skilled workers to practice their crafts, declares it to
13 be a matter of state policy that, when appropriate, a portion of each
14 capital construction appropriation be allocated for the acquisition of
15 works of art to be placed in public places.

16 (b) There is hereby established an art in public places program to
17 be administered by the ~~state~~ council; ~~on the arts~~. EXCEPT THAT, ON AND
18 AFTER JULY 1, 2010, THE PROGRAM SHALL BE ADMINISTERED BY THE
19 DIRECTOR OF THE DIVISION. All works of art purchased and
20 commissioned under the art in public places program shall become a part
21 of the state art collection developed, administered, and operated by the
22 ~~state~~ council. ~~on the arts~~. All works of art purchased or commissioned
23 under this section prior to March 19, 1987, shall be considered a part of
24 the state art collection to be administered by the ~~state~~ council. ~~on the arts~~.

25 (2) As used in this section, unless the context otherwise requires:

26 (a) "Architect" means the person or firm designing the public
27 construction project. "Architect" includes architects, landscape architects,
interior designers, and other design professionals.

1 (b) "Artist" means a practitioner in the visual arts generally
2 recognized by his peers or critics as a professional who produces works
3 of art. "Artist" does not include the architect of a public building under
4 construction or any member of ~~his architectural~~ THE ARCHITECT'S firm.

5 (c) "Public construction project" means a capital construction
6 project subject to the provisions of section 24-30-1303 (3).

7 (d) "Works of art" means all forms of original creations of visual
8 art including, but not limited to:

9 (I) Sculpture, in any material or combination of materials, whether
10 in the round, bas-relief, high relief, mobile, fountain, kinetic, or
11 electronic; ~~or~~

12 (II) Painting, whether portable or permanently fixed, as in the case
13 of murals; ~~or~~

14 (III) Mosaics; ~~or~~

15 (IV) Photographs; ~~or~~

16 (V) Crafts made from clay, fiber and textiles, wood, glass, metal,
17 plastics, or any other material, or any combination thereof; ~~or~~

18 (VI) Calligraphy; ~~or~~

19 (VII) Mixed media composed of any combination of forms or
20 media; ~~or~~

21 (VIII) Unique architectural stylings or embellishments, including
22 architectural crafts; ~~or~~

23 (IX) Environmental landscaping; ~~or~~ AND

24 (X) Restoration or renovation of existing works of art of historical
25 significance.

26 (3) (a) (I) Each capital construction appropriation for a public
27 construction project shall include as a nondeductible item an allocation

1 of not less than one percent of the capital construction costs to be used for
2 the acquisition of works of art; except that the requirements specified in
3 this subparagraph (I) shall not apply to:

4 (A) Capital construction appropriations covered by ~~section~~
5 ~~24-80.5-102~~ SECTION 24-48.5-313;

6 (B) Agricultural facilities where livestock are housed or
7 agricultural products are grown;

8 (C) The diagnostic center located in the city and county of
9 Denver;

10 (D) The facilities authorized by section 1 of ~~Senate Bill No. 101~~
11 ~~SENATE BILL 86-101, enacted at the second regular session of the~~
12 ~~fifty-fifth general assembly~~ IN 1986;

13 (E) The Front Range community college - Larimer campus,
14 Mount Antero and Blanca Peak buildings renovation, phase 2 of 2;

15 (F) The Pueblo community college - industrial
16 technology/technical education renovation, phase 1 of 2 and phase 2 of
17 2;

18 (G) The Morgan community college - automotive programs
19 relocation, phase 1 of 2 and phase 2 of 2;

20 (H) The Fort Lewis college - exercise science/athletic facilities,
21 phase 1 of 2 and phase 2 of 2;

22 (I) Department of public safety - Colorado state patrol, Grand
23 Junction troop office construction;

24 (J) Department of public safety - Colorado state patrol, Castle
25 Rock troop office construction - office portion only; and

26 (K) Department of personnel - North campus upgrades.

27 ~~(H) and (H)~~ Repealed.

1 ~~(IV)~~ (II) Notwithstanding the provisions of subparagraph (I) of
2 this paragraph (a), the percentage of the capital construction costs for the
3 juvenile detention and juvenile commitment beds authorized by sections
4 15 and 16 of House Bill 94-1340, enacted ~~at the second regular session~~
5 ~~of the fifty-ninth general assembly~~ IN 1994, and sections 25, 26, and 27
6 of House Bill 95-1352, enacted ~~at the first regular session of the sixtieth~~
7 ~~general assembly~~ IN 1995, allocated to acquisition of works of art shall be
8 one-tenth of one percent. It is the intent of the general assembly that
9 these allocations be utilized to acquire artworks produced by residents of
10 the state's juvenile facilities.

11 (b) If the allocation provided for in paragraph (a) of this
12 subsection (3) is equal to or greater than one thousand dollars, the ~~state~~
13 ~~council on the arts~~ shall select a jury as described in paragraph (a) of
14 ~~subsection (5)~~ SUBSECTION (6) of this section.

15 (c) If the allocation provided for in paragraph (a) of this
16 subsection (3) is less than one thousand dollars, the ~~state council on the~~
17 ~~arts~~ may, at its discretion, either select a jury or direct that the funds be
18 held within the works of art in public places fund described in ~~subsection~~
19 ~~(6)~~ SUBSECTION (7) of this section for the acquisition of works of art for
20 the state agency for which the capital construction project is to be
21 constructed. Whenever the funds for any state agency equal or exceed
22 one thousand dollars, the ~~state council on the arts~~ shall select a jury as
23 described in paragraph (a) of ~~subsection (5)~~ SUBSECTION (6) of this
24 section.

25 (d) The works of art acquired under this ~~article~~ PART 3 shall be
26 placed in a publicly accessible location within the state agency for which
27 the capital construction project is to be constructed. A collection of

1 works of art may be selected for placement within the state agency and,
2 at the discretion of the state agency and the ~~state council, on the arts,~~
3 made available for loan, circulation, and exhibition in other public
4 facilities.

5 (4) The office of state planning and budgeting, in both the
6 planning and review stages in the construction of state buildings and other
7 public facilities, shall be responsible for insuring compliance with the
8 provisions of subsection (3) of this section.

9 ~~(4.5)~~ (5) The administration of the art in public places program
10 includes supervision of the jury process ~~which~~ THAT convenes to select
11 the site and the artwork, contracting, purchase, commissioning, and
12 reviewing of design, execution, and placement. Acceptance of works of
13 art shall be the responsibility of the ~~state council, on the arts.~~ These
14 activities shall be conducted in consultation with the executive directors
15 of the respective state agencies. The administration of the art in public
16 places program shall not include bearing the costs of maintaining or
17 insuring the works of art. Such costs shall be the responsibility of the
18 respective state agencies.

19 ~~(5)~~ (6) All works of art acquired with funds allocated under
20 subsection (3) of this section shall be contracted for separately from all
21 other items in the original construction plans pursuant to the following
22 guidelines:

23 (a) Selection of artists shall be by the jury method. The ~~state~~
24 ~~council on the arts~~ shall select jury members and convene juries. Jury
25 recommendations shall be presented to the ~~state council on the arts~~ for
26 review and final approval. Any significant changes in the design or
27 construction of the work of art occurring after such final approval of the

1 artist shall be subject to the approval of both the jury and the ~~state~~
2 council. ~~on the arts~~. The council shall determine which changes shall be
3 considered significant for the purposes of this paragraph (a). Each jury
4 shall contain at least the following:

5 (I) A representative from the contracting state agency for which
6 the capital construction project is to be constructed; ~~and~~

7 (II) The architect; ~~and~~

8 (III) A professional artist; ~~and~~

9 (IV) A representative from each community in which a capital
10 construction project is to be constructed; ~~and~~

11 (V) A member of the ~~state~~ council; ~~on the arts~~; ~~and~~

12 ~~(VI) Repealed.~~

13 ~~(VII)~~ (VI) A representative from the contracting state agency who
14 is a tenant or future tenant of the capital construction site; ~~and~~

15 ~~(VIII)~~ (VII) A member of the state house of representatives to be
16 appointed by the speaker of the house; ~~and~~

17 ~~(IX)~~ (VIII) A member of the state senate to be appointed by the
18 president of the senate.

19 ~~(b) Repealed.~~

20 ~~(c)~~ (b) Residents of Colorado shall be the participants of this
21 program except for artists from other states and territories who have
22 achieved national recognition in their specific forms of expression.

23 ~~(d)~~ (c) Jury members who are not state employees shall be
24 reimbursed for actual and necessary travel expenses incurred in fulfilling
25 their duties under this section. Such expenses shall be deducted from the
26 one percent allocation for art.

27 ~~(6)~~ (7) (a) There is hereby created in the state treasury the works

1 of art in public places fund, any moneys in which are hereby appropriated
2 to the state council on the arts, which fund shall be used exclusively for
3 the following purpose: THE purchase of works of art, taking into
4 consideration the artist's preliminary site visit, the design fee, the total
5 costs of construction and installation of the work of art, jury expenses,
6 and program administration in compliance with the provisions of
7 subsection (5) SUBSECTION (6) of this section.

8 (b) PRIOR TO THE 2010-11 FISCAL YEAR, all moneys allocated for
9 the acquisition of works of art pursuant to subsection (3) of this section
10 shall be transmitted to the state treasurer, who shall credit the same to the
11 works of art in public places fund. Any unexpended moneys shall remain
12 in the fund at the end of the fiscal year and shall not revert to the capital
13 construction fund. ANY MONEYS REMAINING IN THE WORKS OF ART IN
14 PUBLIC PLACES FUND ON JULY 1, 2010, SHALL BE TRANSFERRED TO THE
15 CREATIVE INDUSTRIES CASH FUND CREATED IN SECTION 24-48.5-301.

16 (c) If any moneys allocated for the acquisition of works of art
17 pursuant to subsection (3) of this section are not expended after the jury
18 has been convened and has rendered its decision, such moneys shall
19 remain in the works of art in public places fund to be used for the capital
20 construction project for which they were allocated or shall revert to the
21 general fund.

22 (d) ~~Notwithstanding any provision of this subsection (6) to the~~
23 ~~contrary, on March 5, 2003, the state treasurer shall deduct one hundred~~
24 ~~forty-five thousand one hundred thirty-eight dollars from the works of art~~
25 ~~in public places fund and transfer such sum to the general fund.~~

26 (e) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2011.

27 (8) FOR THE 2010-11 FISCAL YEAR AND EACH FISCAL YEAR

1 THEREAFTER, ALL MONEYS ALLOCATED FOR THE ACQUISITION OF WORKS
2 OF ART PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE
3 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
4 TO THE CREATIVE INDUSTRIES CASH FUND CREATED IN SECTION
5 24-48.5-301.

6 (7) (9) Nothing in this section shall be construed to preclude the
7 placement of works of art in public places other than those placed
8 pursuant to this section.

9 **24-48.5-313. [Formerly 24-80.5-102] Art in public places -**
10 **works of art in correctional and juvenile facilities.** (1) Each capital
11 construction appropriation for a correctional facility shall include as a
12 nondeductible item an allocation of not less than one-tenth of one percent
13 of the capital construction costs to be used for a prison inmate art fund.
14 The moneys in such fund shall be used for materials to allow inmates to
15 create works of art to be included in the construction of or to be placed
16 permanently in such facility. The department of corrections shall
17 administer by rule a competitive program among the inmates of such
18 facility in order to determine which art projects and inmates shall receive
19 an incentive award not to exceed two hundred dollars each. The ~~state~~
20 council ~~on the arts~~ shall appoint one of its members to serve in an
21 advisory capacity to the department of corrections on the implementation
22 of this subsection (1).

23 (2) For the purposes of subsection (1) of this section, "correctional
24 facility" means any state facility in which persons are or may be lawfully
25 held in custody as a result of conviction of a crime.

26 (3) (a) On and after January 1, 1998, each capital construction
27 appropriation for a juvenile correctional facility shall include as a

1 nondeductible item an allocation of not less than one-tenth of one percent
2 of the capital construction costs to be used for a juvenile art fund. The
3 moneys in such fund shall be used for materials to allow juveniles housed
4 by the department of human services to create works of art to be included
5 in the construction of or to be placed permanently in juvenile facilities.
6 The ~~state council on the arts~~ shall appoint one of its members to serve in
7 an advisory capacity to the department of human services on the
8 implementation of this subsection (3).

9 (b) As used in this subsection (3), "juvenile correctional facility"
10 means any facility operated by or under contract with the department of
11 human services pursuant to section 19-2-403, C.R.S.

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

15 **12-47.1-701. Limited gaming fund.** (4) (a) At the end of each
16 fiscal year, the state treasurer shall distribute the balance remaining in the
17 limited gaming fund in accordance with the provisions of section 9 (5) (b)
18 (II) of article XVIII of the state constitution and paragraph (c) of
19 subsection (1) of this section; except that:

20 (IV) (A) Except as provided in subparagraph (VI) of this
21 paragraph (a) and sub-subparagraphs (A.5) and (B) of this subparagraph
22 (IV), for the 2005-06 fiscal year and each fiscal year thereafter, of the
23 portion of limited gaming fund moneys that would otherwise be
24 transferred to the general fund pursuant to section 9 (5) (b) (II) of article
25 XVIII of the state constitution, after the transfer to the local government
26 limited gaming impact fund required by section 12-47.1-1601, nineteen
27 million dollars shall be transferred to the Colorado travel and tourism

1 promotion fund created in section 24-49.7-106, C.R.S., one million five
2 hundred thousand dollars shall be transferred to the state council on the
3 arts cash fund created in ~~section 24-48.8-109~~ SECTION 24-48.5-308,
4 C.R.S., and three million dollars shall be transferred to the new jobs
5 incentives cash fund created in section 24-46-105.7, C.R.S.; EXCEPT
6 THAT, FOR THE 2010-11 FISCAL YEAR AND EACH FISCAL YEAR
7 THEREAFTER, THE AMOUNT THAT WOULD OTHERWISE BE TRANSFERRED TO
8 THE STATE COUNCIL ON THE ARTS CASH FUND PURSUANT TO THIS
9 SUB-SUBPARAGRAPH (A) SHALL INSTEAD BE TRANSFERRED TO THE
10 CREATIVE INDUSTRIES CASH FUND, CREATED IN SECTION 24-48.5-301,
11 C.R.S. For purposes of the transfers occurring at the end of the 2006-07
12 fiscal year and each fiscal year thereafter, no later than June 1, 2007, and
13 no later than June 1 of each calendar year thereafter, the executive
14 director of the department of revenue shall adjust the dollar amounts
15 specified in this sub-subparagraph (A) to reflect the percentage change in
16 the consumer price index for the Denver metropolitan area. As used in
17 this sub-subparagraph (A), "percentage change in the consumer price
18 index for the Denver metropolitan area" means the percentage change
19 between the two published annual estimates of the consumer price index
20 for the Denver-Boulder-Greeley combined statistical area for all urban
21 consumers, all goods, as defined and officially reported by the bureau of
22 labor statistics in the United States department of labor, or its successor
23 index, for the two calendar years immediately preceding the calendar year
24 in which the adjustment is made.

25 (A.5) If, based on the March revenue forecast prepared by the
26 legislative council, the joint budget committee determines that the amount
27 of general fund revenues for the fiscal year in which the forecast is

1 prepared will be insufficient to cover the amount of general fund
2 appropriations to be made for that fiscal year as included in the joint
3 budget committee's appropriations report, the joint budget committee,
4 acting by bill, shall determine the amount of limited gaming fund moneys,
5 if any, that should be transferred to the state council on the arts cash fund
6 OR THE CREATIVE INDUSTRIES CASH FUND, AS APPLICABLE, the new jobs
7 incentive cash fund, and the Colorado travel and tourism promotion fund
8 at the end of that fiscal year.

9 (B) If the joint budget committee, pursuant to sub-subparagraph
10 (A.5) of this subparagraph (IV), does not determine the amount of limited
11 gaming fund moneys, if any, to be transferred to the funds specified in
12 sub-subparagraph (A) of this subparagraph (IV) and if, based on the June
13 revenue forecast prepared by the legislative council, the state treasurer
14 determines that the amount of general fund revenues for the fiscal year in
15 which the forecast is prepared will be insufficient to cover the amount of
16 general fund appropriations to be made for that fiscal year as included in
17 the joint budget committee's appropriations report, the state treasurer shall
18 transfer to the general fund from the moneys that would otherwise be
19 transferred to the state council on the arts cash fund OR THE CREATIVE
20 INDUSTRIES CASH FUND, AS APPLICABLE, the new jobs incentives cash
21 fund, and the Colorado travel and tourism promotion fund pursuant to
22 sub-subparagraph (A) of this subparagraph (IV) at the end of the fiscal
23 year an amount equal to the lesser of the full amount that would otherwise
24 be transferred to the state council on the arts cash fund OR THE CREATIVE
25 INDUSTRIES CASH FUND, AS APPLICABLE, the new jobs incentives cash
26 fund, and the Colorado travel and tourism promotion fund or the amount
27 necessary to cover the amount of general fund appropriations to be made

1 for the fiscal year as included in the joint budget committee's
2 appropriations report. Any reduction in the amounts transferred to the
3 state council on the arts cash fund OR THE CREATIVE INDUSTRIES CASH
4 FUND, AS APPLICABLE, the new jobs incentives cash fund, and the
5 Colorado travel and tourism promotion fund required by this
6 sub-subparagraph (B) shall be pro-rated based on the amounts otherwise
7 required to be transferred to said funds pursuant to sub-subparagraph (A)
8 of this subparagraph (IV).

9 (V) (A) Except as provided in subparagraph (VI) of this paragraph
10 (a) and sub-subparagraphs (B), (C), and (E) of this subparagraph (V), for
11 the 2006-07, 2007-08, and 2008-09 fiscal years, of the portion of limited
12 gaming fund moneys that would otherwise be transferred to the general
13 fund pursuant to section 9 (5) (b) (II) of article XVIII of the state
14 constitution, after the transfer to the local government limited gaming
15 impact fund required by section 12-47.1-1601, six hundred thousand
16 dollars shall be transferred to the film incentives cash fund created in
17 section 24-46-105.8, C.R.S. Except as provided in sub-subparagraphs (B)
18 and (C) of this subparagraph (V), for the 2009-10 fiscal year and each
19 fiscal year thereafter, of the portion of limited gaming fund moneys that
20 would otherwise be transferred to the general fund pursuant to section 9
21 (5) (b) (II) of article XVIII of the state constitution, after the transfer to
22 the local government limited gaming impact fund required by section
23 12-47.1-1601, six hundred thousand dollars shall be transferred to the
24 Colorado office of film, television, and media operational account cash
25 fund created in ~~section 24-48.5-203~~ SECTION 24-48.5-311, C.R.S., EXCEPT
26 THAT, FOR THE 2010-11 FISCAL YEAR AND EACH FISCAL YEAR
27 THEREAFTER, THE AMOUNT THAT WOULD OTHERWISE BE TRANSFERRED TO

1 THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA OPERATIONAL
2 ACCOUNT CASH FUND PURSUANT TO THIS SUB-SUBPARAGRAPH (A) SHALL
3 INSTEAD BE TRANSFERRED TO THE CREATIVE INDUSTRIES CASH FUND,
4 CREATED IN SECTION 24-48.5-301, C.R.S. For purposes of the transfers
5 occurring at the end of the 2006-07 fiscal year and each fiscal year
6 thereafter, no later than June 1, 2007, and no later than June 1 of each
7 calendar year thereafter, the executive director shall adjust the dollar
8 amounts specified in this sub-subparagraph (A) to reflect the percentage
9 change in the consumer price index for the Denver metropolitan area. As
10 used in this sub-subparagraph (A), "percentage change in the consumer
11 price index for the Denver metropolitan area" means the percentage
12 change between the two published annual estimates of the consumer price
13 index for the Denver-Boulder-Greeley combined statistical area for all
14 urban consumers, all goods, as defined and officially reported by the
15 bureau of labor statistics in the United States department of labor for the
16 two calendar years immediately preceding the calendar year in which the
17 adjustment is made.

18 (C) If the joint budget committee, pursuant to sub-subparagraph
19 (B) of this subparagraph (V), does not determine the amount of limited
20 gaming fund moneys, if any, to be transferred to the film incentives cash
21 fund, ~~or~~ the Colorado office of film, television, and media operational
22 account cash fund, OR THE CREATIVE INDUSTRIES CASH FUND, AS
23 APPLICABLE, specified in sub-subparagraph (A) of this subparagraph (V)
24 and if, based on the June revenue forecast prepared by the legislative
25 council, the state treasurer determines that the amount of general fund
26 revenues for the fiscal year in which the forecast is prepared will be
27 insufficient to cover the amount of general fund appropriations to be

1 made for that fiscal year as included in the joint budget committee's
2 appropriations report, the state treasurer shall transfer to the general fund
3 from the moneys that would otherwise be transferred to the film
4 incentives cash fund, ~~or~~ the Colorado office of film, television, and media
5 operational account cash fund, ~~OR THE CREATIVE INDUSTRIES CASH FUND,~~
6 ~~AS APPLICABLE,~~ pursuant to sub-subparagraph (A) of this subparagraph
7 (V) at the end of the fiscal year an amount equal to the lesser of the full
8 amount that would otherwise be transferred to the film incentives cash
9 fund, ~~or~~ the Colorado office of film, television, and media operational
10 account cash fund, ~~OR THE CREATIVE INDUSTRIES CASH FUND, AS~~
11 ~~APPLICABLE,~~ or the amount necessary to cover the amount of general fund
12 appropriations to be made for the fiscal year as included in the joint
13 budget committee's appropriations report. Any reduction in the amount
14 transferred to the film incentives cash fund, ~~or~~ the Colorado office of
15 film, television, and media operational account cash fund, ~~OR THE~~
16 ~~CREATIVE INDUSTRIES CASH FUND, AS APPLICABLE,~~ required by this
17 sub-subparagraph (C) and the amounts transferred to the state council on
18 the arts cash fund ~~OR THE CREATIVE INDUSTRIES CASH FUND, AS~~
19 ~~APPLICABLE,~~ the new jobs incentives cash fund, and the Colorado travel
20 and tourism promotion fund required by sub-subparagraph (B) of
21 subparagraph (IV) of this paragraph (a) shall be pro-rated based on the
22 amounts otherwise required to be transferred to said funds pursuant to
23 sub-subparagraph (A) of this subparagraph (V) and sub-subparagraph (A)
24 of subparagraph (IV) of this paragraph (a).

25

26 **SECTION 3.** 24-1-137, Colorado Revised Statutes, is amended
27 to read:

1 **24-1-137. Effect of decrease in the length of terms of office for**
2 **certain state boards, commissions, authorities, and agencies.** Persons
3 who are holding office on June 15, 1987, and who were appointed to
4 terms of office pursuant to sections 11-2-102, 12-4-103, 12-22-104,
5 12-32-103, 12-33-103, 12-36-103, 12-40-106, 12-60-102, 22-80-104,
6 23-9-103, 23-15-104, 23-40-104, 23-41-102, 24-32-706, 24-42-102,
7 25-25-104, 29-1-503, 29-4-704, 34-60-104, 35-41-101, 35-65-401,
8 35-75-104, 39-2-123, and 40-2-101, C.R.S., as said sections existed prior
9 to June 15, 1987, shall continue to serve in such office, but such service
10 shall be at the pleasure of the governor, who may appoint a replacement
11 to serve for the unexpired term of any member. However, if the governor
12 has not appointed any such replacement on or before November 15, 1987,
13 then the person who is holding such office on June 15, 1987, shall no
14 longer be subject to replacement pursuant to this section but shall be
15 subject to whatever removal provisions may otherwise apply for such
16 office. Any such member for whom a replacement has been appointed
17 shall continue to serve until his or her successor is duly qualified.
18 Appointments to new terms of office made after June 15, 1987, shall be
19 made for terms of four years as prescribed by law; except that such
20 provision shall not apply to terms of office of persons appointed pursuant
21 to section 23-9-103, C.R.S., as it existed prior to July 1, 2006, or to
22 ~~section 24-48.8-103~~ SECTION 24-48.5-303, which is the former section
23 23-9-103, C.R.S.

24 **SECTION 4.** 24-37.5-402 (4), Colorado Revised Statutes, is
25 amended to read:

26 **24-37.5-402. Definitions.** As used in this part 4, unless the
27 context otherwise requires:

1 (4) "Department of higher education" means the Colorado
2 commission on higher education, collegeinvest, the Colorado student loan
3 program, the Colorado college access network, the private occupational
4 school division, AND the state historical society. ~~and the state council on~~
5 ~~the arts.~~

6

7 **SECTION 5.** The introductory portion to 43-1-404 (1) and
8 43-1-404 (1) (e) (III), Colorado Revised Statutes, are amended to read:

9 **43-1-404. Advertising devices allowed - exception.** (1) The
10 following advertising devices as defined in section 43-1-403 may be
11 erected and maintained when in compliance with all provisions of this
12 part 4 and the rules ~~and regulations~~ adopted by the department:

13 (e) (III) The department shall consult with the ~~state council on the~~
14 ~~arts~~ CREATIVE INDUSTRIES and the state historical society to determine
15 places of cultural importance which are eligible to erect advertising
16 devices pursuant to sub-subparagraph (C) of subparagraph (I) of this
17 paragraph (e). It is the intent of the general assembly that no state
18 moneys nor any federal funds be used to erect such advertising devices.

19 **SECTION 6. Repeal of provisions being relocated in this act.**
20 Part 2 of article 48.5 of title 24, article 48.8 of title 24, and article 80.5 of
21 title 24, Colorado Revised Statutes, are repealed.

22 **SECTION 7. Repeal of provisions not being relocated in this**
23 **act.** ~~24-46-105.8 (4) (a), 24-48.8-101,~~ and 24-48.8-105, Colorado
24 Revised Statutes, are repealed.

25 **SECTION 8. Specified effective date.** This act shall take effect
26 July 1, 2010.

1 **SECTION 9. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.