

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-1027.01 Jessica Herrera x4218

HOUSE BILL 23-1309

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A BILL FOR AN ACT

101 **CONCERNING THE RESTRUCTURING OF THE PERFORMANCE-BASED**
102 **INCENTIVE FOR FILM PRODUCTION IN COLORADO, AND, IN**
103 **CONNECTION THEREWITH, REDUCING AN APPROPRIATION.**

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://leg.colorado.gov>.)

Current law provides a film production incentive that allows a production company a performance-based cash rebate equal to 20%, or in the discretion of the director of the office of economic development a higher amount, of qualified Colorado expenditures for films, television, series, commercials, and video games produced in the state. Based on the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
May 3, 2023

HOUSE
Amended 2nd Reading
May 2, 2023

recommendations of the film incentive task force report provided findings and recommendations that the bill codifies into statute including:

- Restructuring the film incentive program, from its current state as a cash rebate program into a refundable income tax credit (credit) for qualified production companies for income tax years commencing on or after January 1, 2024, but before January 1, 2029, that commence during a calendar year that begins during a state fiscal year for which there are at least \$50 million of excess state revenues that are required to be refunded above amounts being refunded by specified existing refund mechanisms.
- Specifying that the credit is not allowed for income tax years beginning in any other calendar year unless the general assembly, acting by bill, specifies a maximum aggregate amount of such tax credits that is allowed for that income tax year; and
- Requiring the office of economic development and the office of film, television, and media to jointly review the effectiveness of the credit and report the results of the review to the house of representatives finance committee and the senate finance committee, or their successor committees, no later than February 4, 2028.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-549 as
3 follows:

4 **39-22-549. Film incentive tax credit - tax preference**
5 **performance statement - review - legislative declaration - definitions**

6 **- repeal.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

8 (I) COLORADO IS HOME TO MANY TALENTED FILM INDUSTRY
9 MEMBERS, MANY OF WHOM TRAVEL OUT-OF-STATE FOR WORK AS THEY
10 CANNOT FIND ENOUGH WORK LOCALLY TO SUPPORT THEM;

11 (II) WITH A COMPETITIVE FILM INCENTIVE THAT IS COMPARABLE
12 TO SURROUNDING WESTERN STATES WITH SIMILAR BEAUTIFUL
13 LANDSCAPES, COLORADO WILL HAVE THE ABILITY TO ATTRACT

1 HIGH-PROFILE PROJECTS THAT WILL BRING IN MORE FILM TOURISM AND
2 INCREASE COLORADO'S IMPACT ON THE GLOBAL FILM INDUSTRY; AND

3 (III) COLORADO'S FILM INDUSTRY HAS THE ABILITY TO BE A TRUE
4 ECONOMIC DRIVER IN THE STATE.

5 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
6 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
7 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
8 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS AND
9 DECLARES THAT THE PURPOSE OF THE TAX CREDIT PROVIDED FOR IN THIS
10 SECTION IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS
11 AND TO PROVIDE A REDUCTION IN INCOME TAX LIABILITY FOR CERTAIN
12 BUSINESS OR INDIVIDUALS BY ALLOWING PRODUCTION COMPANIES TO
13 RECEIVE A CREDIT AGAINST INCOME TAX FOR QUALIFIED EXPENDITURES IF
14 CERTAIN CRITERIA ARE MET. SPECIFICALLY, THIS TAX EXPENDITURE IS
15 INTENDED TO INCENTIVIZE PRODUCTION COMPANIES TO FILM IN COLORADO
16 AND ATTRACT MORE FILM PROJECTS, IN PARTICULAR HIGH-BUDGET FILM
17 PROJECTS, THAT WILL EMPLOY MORE COLORADANS.

18 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
19 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
20 PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE
21 NUMBER AND VALUE OF THE CREDITS CLAIMED AND, WHEN AVAILABLE,
22 TAKING INTO CONSIDERATION THE RESULTS OF THE REVIEW PERFORMED
23 BY THE OFFICE OF ECONOMIC DEVELOPMENT AND THE OFFICE PURSUANT
24 TO SUBSECTION (8) OF THIS SECTION.

25 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES:

27 (a) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED

1 IN THIS SECTION.

2 (b) "FILM" HAS THE SAME MEANING AS SET FORTH IN SECTION
3 24-48.5-114 (1).

4 (c) "OBSCENE" HAS THE SAME MEANING AS SET FORTH IN SECTION
5 18-7-101 (2).

6 (d) "OFFICE" HAS THE SAME MEANING AS SET FORTH IN SECTION
7 24-48.5-114.

8 (e) "OFFICE OF ECONOMIC DEVELOPMENT" MEANS THE OFFICE OF
9 ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101 (1).

10 (f) "ORIGINATES" MEANS THAT A PRODUCTION COMPANY HAS BEEN
11 A RESIDENT OF THE STATE OR REGISTERED WITH THE SECRETARY OF STATE
12 FOR AT LEAST TWELVE CONSECUTIVE MONTHS AND, AS OF THE DATE OF
13 APPLYING FOR A TAX CREDIT AS SPECIFIED IN SUBSECTION (3) OF THIS
14 SECTION, HAS ENGAGED IN PRODUCTION ACTIVITIES IN THE STATE FOR
15 OTHER PROJECTS IN THE PAST TWELVE CONSECUTIVE MONTHS; EXCEPT
16 THAT IF THE PRODUCTION COMPANY CREATES A BUSINESS ENTITY FOR THE
17 SOLE PURPOSE OF CONDUCTING PRODUCTION ACTIVITIES IN THE STATE,
18 THEN SUCH BUSINESS ENTITY NEED NOT BE REGISTERED WITH THE
19 SECRETARY OF STATE FOR TWELVE CONSECUTIVE MONTHS, BUT THE
20 MANAGER OF THE BUSINESS ENTITY MUST BE A RESIDENT OF THE STATE
21 FOR AT LEAST TWELVE CONSECUTIVE MONTHS AS OF THE DATE OF
22 APPLYING FOR A TAX CREDIT AS SPECIFIED IN SUBSECTION (3) OF THIS
23 SECTION. AS USED IN THIS SUBSECTION (2)(f), "MANAGER OF THE BUSINESS
24 ENTITY" MEANS A MANAGER WITH DECISION-MAKING AUTHORITY TO MAKE
25 FINANCIAL OR LEGAL COMMITMENTS ON BEHALF OF THE PRODUCTION
26 COMPANY OR BUSINESS ENTITY.

27 (g) "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 JANUARY 1,
3 2024, 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 (h) "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 (i) "QUALIFIED LOCAL EXPENDITURE" MEANS A PAYMENT MADE BY
11 A PRODUCTION COMPANY OPERATING IN COLORADO TO A PERSON OR
12 BUSINESS IN COLORADO IN CONNECTION WITH PRODUCTION ACTIVITIES IN
13 COLORADO. "QUALIFIED LOCAL EXPENDITURE" INCLUDES, BUT NEED NOT
14 BE LIMITED TO:

15 (I) PAYMENTS MADE IN CONNECTION WITH DEVELOPING OR
16 PURCHASING THE STORY AND SCENARIO TO BE USED FOR A FILM;

17 (II) PAYMENTS MADE FOR THE COSTS OF SET CONSTRUCTION AND
18 OPERATIONS, WARDROBE, ACCESSORIES, AND RELATED SERVICES;

19 (III) PAYMENTS MADE FOR THE COSTS OF PHOTOGRAPHY, SOUND
20 RECORDING AND SYNCHRONIZATION, LIGHTING, AND RELATED SERVICES;

21 (IV) PAYMENTS MADE FOR THE COSTS OF EDITING,
22 POST-PRODUCTION, MUSIC, AND RELATED SERVICES;

23 (V) 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 (VI) PAYMENTS FOR AIRFARE PURCHASED THROUGH A

1 COLORADO-BASED TRAVEL AGENCY OR COMPANY;

2 (VII) PAYMENTS FOR INSURANCE AND BONDING PURCHASED
3 THROUGH A COLORADO-BASED INSURANCE AGENT;

4 (VIII) PAYMENTS FOR OTHER DIRECT COSTS INCURRED BY THE
5 FILM PRODUCTION COMPANY THAT ARE DEEMED APPROPRIATE BY THE
6 OFFICE; AND

7 (IX) PAYMENTS OF UP TO ONE MILLION DOLLARS PER EMPLOYEE
8 OR CONTRACTOR, MADE BY A PRODUCTION COMPANY TO PAY THE WAGES
9 OR SALARIES OF EMPLOYEES OR CONTRACTORS WHO PARTICIPATE IN THE
10 PRODUCTION ACTIVITIES. IN ORDER FOR ANY WAGE OR SALARY TO BE
11 CONSIDERED A QUALIFIED LOCAL EXPENDITURE, ALL COLORADO INCOME
12 TAXES SHALL BE WITHHELD AND PAID EITHER BY THE PRODUCTION
13 COMPANY OR THE INDIVIDUAL. ANY PAYMENTS IN EXCESS OF ONE MILLION
14 DOLLARS PER EMPLOYEE OR CONTRACTOR SHALL BE EXCLUDED.

15 (3) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (5) OF
16 THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER
17 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2025, THERE SHALL BE
18 ALLOWED A FILM INCENTIVE TAX CREDIT WITH RESPECT TO INCOME TAXES
19 IMPOSED PURSUANT TO THIS ARTICLE 22 TO ANY PRODUCTION COMPANY
20 EMPLOYING A WORKFORCE FOR ANY IN-STATE PRODUCTION ACTIVITY
21 MADE UP OF AT LEAST FIFTY PERCENT COLORADO RESIDENTS IN THE
22 AMOUNT EQUAL TO:

23 (a) TWENTY PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION
24 COMPANY'S QUALIFIED LOCAL EXPENDITURES IF THE TOTAL OF SUCH
25 EXPENDITURES EQUALS OR EXCEEDS ONE HUNDRED THOUSAND DOLLARS
26 FOR A PRODUCTION COMPANY THAT ORIGINATES PRODUCTION ACTIVITIES
27 IN COLORADO;

1 (b) TWENTY PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION
2 COMPANY'S QUALIFIED LOCAL EXPENDITURES IF THE TOTAL OF SUCH
3 EXPENDITURES EQUALS OR EXCEEDS TWO HUNDRED FIFTY THOUSAND
4 DOLLARS FOR A PRODUCTION COMPANY THAT PRODUCES A TELEVISION
5 COMMERCIAL OR VIDEO GAME AND THAT DOES NOT ORIGINATE
6 PRODUCTION ACTIVITIES IN COLORADO BUT EMPLOYS A WORKFORCE MADE
7 UP OF AT LEAST FIFTY PERCENT COLORADO RESIDENTS FOR ANY IN-STATE
8 PRODUCTION ACTIVITY; AND

9 (c) TWENTY-TWO PERCENT OF THE TOTAL AMOUNT OF THE
10 PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES IF THE
11 EXECUTIVE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT
12 DETERMINES, IN THE EXECUTIVE DIRECTOR'S DISCRETION, THAT THE
13 PRODUCTION COMPANY MEETS THE CRITERIA OF EITHER SUBSECTION (3)(a)
14 OR (3)(b) OF THIS SECTION AND FILMED IN A RURAL COMMUNITY, OR A
15 MARGINALIZED URBAN CENTER OR USED LOCAL INFRASTRUCTURE WHEN
16 FILMING.

17 (4) THE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT
18 MAY, IN THE DIRECTOR'S DISCRETION, APPROVE A TAX CREDIT IN AN
19 AMOUNT THAT EXCEEDS TWENTY PERCENT OR TWENTY-TWO PERCENT, AS
20 APPLICABLE, OF QUALIFIED LOCAL EXPENDITURES FOR A PRODUCTION
21 COMPANY THAT QUALIFIES FOR A TAX CREDIT UNDER SUBSECTION (3) OF
22 THIS SECTION.

23 (5) (a) FOR THE INCOME TAX YEAR THAT COMMENCES DURING THE
24 2024 CALENDAR YEAR, THE MAXIMUM AGGREGATE AMOUNT OF ALL TAX
25 CREDITS ALLOWED PURSUANT TO SUBSECTION (3) OF THIS SECTION IS FIVE
26 MILLION DOLLARS == IF, BASED ON THE FINANCIAL REPORT PREPARED
27 BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, THE

1 CONTROLLER CERTIFIES THAT, FOR THE STATE FISCAL YEAR THAT
2 INCLUDES THE FIRST DAY OF THE CALENDAR YEAR THE AMOUNT OF STATE
3 REVENUES IN EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING
4 IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION
5 FOR THE STATE FISCAL YEAR THAT THE VOTERS OF THE STATE HAVE NOT
6 AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE NOT
7 REQUIRED TO BE REFUNDED PURSUANT TO A REFUND MECHANISM SET
8 FORTH IN SECTIONS 39-3-209, 39-3-210, OR ANY OTHER SECTION OTHER
9 THAN THE REFUND MECHANISMS DESCRIBED IN PART 20 OF ARTICLE 22 OF
10 THIS TITLE 39 IS AT LEAST FIFTY MILLION DOLLARS.

11 (b) FOR ALL INCOME TAX YEARS THAT COMMENCE IN A SINGLE
12 CALENDAR YEAR, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE
13 CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, THE
14 CONTROLLER CERTIFIES THAT, FOR THE STATE FISCAL YEAR THAT
15 INCLUDES THE FIRST DAY OF THE CALENDAR YEAR, THE AMOUNT OF STATE
16 REVENUES IN EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING
17 IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION
18 FOR THE STATE FISCAL YEAR THAT THE VOTERS OF THE STATE HAVE NOT
19 AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE NOT
20 REQUIRED TO BE REFUNDED PURSUANT TO A REFUND MECHANISM SET
21 FORTH IN SECTIONS 39-3-209, 39-3-210, OR ANY OTHER SECTION OTHER
22 THAN THE REFUND MECHANISMS DESCRIBED IN PART 20 OF ARTICLE 22 OF
23 THIS TITLE 39 IS LESS THAN FIFTY MILLION DOLLARS, THEN THE TAX
24 CREDIT OTHERWISE ALLOWED UNDER SUBSECTION (3) OF THIS SECTION IS
25 NOT ALLOWED FOR THOSE INCOME TAX YEARS UNLESS THE GENERAL
26 ASSEMBLY, ACTING BY BILL, SPECIFIES A MAXIMUM AGGREGATE AMOUNT
27 OF SUCH TAX CREDITS THAT IS ALLOWED FOR THAT INCOME TAX YEAR.

1 (c) A PRODUCTION COMPANY SHALL NOT APPLY FOR AND THE
2 OFFICE SHALL NOT APPROVE A TAX CREDIT ALLOWED UNDER SUBSECTION
3 (3) OF THIS SECTION FOR ANY QUALIFIED LOCAL EXPENDITURES FOR WHICH
4 THE PRODUCTION COMPANY HAS APPLIED OR BEEN AWARDED A
5 PERFORMANCE-BASED INCENTIVE PURSUANT TO SECTION 24-48.5-116.

6 (6) (a) FOR A PRODUCTION COMPANY TO CLAIM A TAX CREDIT
7 PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE PRODUCTION
8 COMPANY MUST APPLY TO THE OFFICE, IN A MANNER TO BE DETERMINED
9 BY THE OFFICE PRIOR TO BEGINNING PRODUCTION ACTIVITIES IN THE STATE
10 FOR THE PROJECT FOR WHICH THE PRODUCTION COMPANY IS SEEKING A
11 TAX CREDIT. THE APPLICATION MUST INCLUDE A STATEMENT OF INTENT BY
12 THE PRODUCTION COMPANY TO PRODUCE A FILM IN COLORADO FOR WHICH
13 THE PRODUCTION COMPANY WILL BE ELIGIBLE TO RECEIVE THE TAX
14 CREDIT. THE PRODUCTION COMPANY MUST SUBMIT, IN CONJUNCTION WITH
15 THE APPLICATION, ANY DOCUMENTATION NECESSARY TO DEMONSTRATE
16 THAT:

17 (I) THE PRODUCTION COMPANY'S PROJECTED QUALIFIED LOCAL
18 EXPENDITURES WILL SATISFY THE MINIMUM EXPENDITURES
19 REQUIREMENTS SPECIFIED IN SUBSECTION (3)(a) OR (3)(b) OF THIS
20 SECTION, AS APPLICABLE AND, IF APPLICABLE, THE REQUIREMENTS SET
21 FORTH IN SUBSECTION (3)(c) OF THIS SECTION; AND

22 (II) IF THE PRODUCTION COMPANY SEEKS A TAX CREDIT SPECIFIED
23 IN SUBSECTION (3)(a) OF THIS SECTION, THE PRODUCTION COMPANY WILL
24 ORIGINATE PRODUCTION ACTIVITIES IN COLORADO, INCLUDING COPIES OF
25 INCOME TAX FORMS, PROOF OF VOTER REGISTRATION, OR COPIES OF
26 UTILITY BILLS, TO PROVIDE DOCUMENTARY EVIDENCE THAT, AS OF THE
27 DATE OF APPLYING FOR A TAX CREDIT:

1 (A) THE PRODUCTION COMPANY ENGAGED IN PRODUCTION
2 ACTIVITIES IN THE STATE FOR OTHER PROJECTS IN THE PAST TWELVE
3 CONSECUTIVE MONTHS; OR

4 (B) IF THE PRODUCTION COMPANY CREATED A BUSINESS ENTITY
5 FOR THE SOLE PURPOSE OF CONDUCTING PRODUCTION ACTIVITIES IN THE
6 STATE, THE MANAGER OF THE BUSINESS ENTITY WAS A RESIDENT IN THE
7 STATE FOR THE PAST TWELVE CONSECUTIVE MONTHS.

8 (b) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY
9 A PRODUCTION COMPANY BEFORE THE PRODUCTION COMPANY BEGINS
10 WORK ON A FILM IN COLORADO. BASED ON THE INFORMATION PROVIDED
11 IN THE PRODUCTION COMPANY'S APPLICATION, THE OFFICE SHALL MAKE AN
12 INITIAL DETERMINATION OF WHETHER THE PRODUCTION COMPANY WILL BE
13 ELIGIBLE TO RECEIVE A TAX CREDIT AND ESTIMATE THE AMOUNT OF THE
14 TAX CREDIT THAT MAY BE GRANTED TO THE PRODUCTION COMPANY. THE
15 OFFICE, WITH THE APPROVAL OF THE COLORADO ECONOMIC DEVELOPMENT
16 COMMISSION CREATED IN SECTION 24-46-102, SHALL GRANT CONDITIONAL
17 WRITTEN APPROVAL TO A PRODUCTION COMPANY THAT, BASED ON THE
18 INFORMATION PROVIDED BY THE PRODUCTION COMPANY AND ON AN
19 ANALYSIS OF SUCH INFORMATION BY THE OFFICE AND THE COLORADO
20 ECONOMIC DEVELOPMENT COMMISSION, THE PRODUCTION COMPANY WILL
21 SATISFY THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION AND BE
22 ELIGIBLE TO CLAIM A TAX CREDIT. THE OFFICE SHALL NOT GRANT
23 CONDITIONAL WRITTEN APPROVAL TO A PRODUCTION COMPANY UNTIL THE
24 PRODUCTION COMPANY AND THE OFFICE HAVE ENTERED INTO A
25 CONTRACT. ■■■

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

1 APPROVAL FOR A TAX CREDIT FROM THE OFFICE MUST RETAIN A CERTIFIED
2 PUBLIC ACCOUNTANT LICENCED TO PRACTICE IN THE STATE OR A
3 CERTIFIED PUBLIC ACCOUNTING FIRM THAT IS REGISTERED IN THE STATE,
4 TO REVIEW AND REPORT IN WRITING, AND IN ACCORDANCE WITH
5 PROFESSIONAL STANDARDS, REGARDING THE ACCURACY OF THE FINANCIAL
6 DOCUMENTS THAT DETAIL THE EXPENSES INCURRED IN THE COURSE OF THE
7 FILM PRODUCTION ACTIVITIES IN COLORADO. THE CERTIFIED PUBLIC
8 ACCOUNTANT'S WRITTEN REPORT MUST INCLUDE DOCUMENTATION OF THE
9 PRODUCTION COMPANY'S ACTUAL EXPENDITURES, INCLUDING ITS ACTUAL
10 QUALIFIED LOCAL EXPENDITURES, AND ANY DOCUMENTATION NECESSARY
11 TO SHOW THAT THE PRODUCTION COMPANY EMPLOYED A WORKFORCE FOR
12 THE IN-STATE PRODUCTION ACTIVITIES MADE UP OF AT LEAST FIFTY
13 PERCENT COLORADO RESIDENTS. WHEN THE PRODUCTION COMPANY
14 PROVIDES A COPY OF THE CERTIFIED PUBLIC ACCOUNTANT'S WRITTEN
15 REPORT AND THE PRODUCTION COMPANY CERTIFIES IN WRITING TO THE
16 OFFICE THAT THE AMOUNT OF THE PRODUCTION COMPANY'S ACTUAL
17 QUALIFIED LOCAL EXPENDITURES EQUALS OR EXCEEDS THE APPLICABLE
18 MINIMUM TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED
19 LOCAL EXPENDITURES AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION,
20 THE OFFICE SHALL CONDUCT A REVIEW OF THE CERTIFIED PUBLIC
21 ACCOUNTANT'S WRITTEN REPORT TO ENSURE THE REQUIREMENTS OF THIS
22 SECTION ARE MET. IF THE OFFICE IS SATISFIED THAT THE REQUIREMENTS
23 OF THIS SECTION ARE MET, AND THE OFFICE CONFIRMS THAT THE CERTIFIED
24 PUBLIC ACCOUNTANT WHO PROVIDED THE WRITTEN REPORT IS FROM THE
25 LIST DESCRIBED IN SUBSECTION (6)(c)(II)(B) OF THIS SECTION, THEN THE
26 OFFICE SHALL ISSUE TO THE PRODUCTION COMPANY A TAX CREDIT
27 CERTIFICATE THAT EVIDENCES THE PRODUCTION COMPANY'S RIGHT TO

1 CLAIM THE TAX CREDIT ALLOWED UNDER SUBSECTION (3) OF THIS
2 SECTION. THE TAX CREDIT CERTIFICATE MUST INCLUDE THE TAXPAYER'S
3 NAME, THE TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL
4 EMPLOYER IDENTIFICATION NUMBER, THE APPROVED TAX CREDIT AMOUNT,
5 THE INCOME TAX YEAR FOR WHICH THE TAX CREDIT IS BEING ALLOWED,
6 AND ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR OF THE
7 DEPARTMENT OF REVENUE MAY REQUIRE. THE OFFICE SHALL NOT ISSUE
8 TAX CREDIT CERTIFICATES FOR ALL INCOME TAX YEARS THAT COMMENCE
9 IN A SINGLE INCOME TAX YEAR IN EXCESS OF THE MAXIMUM AGGREGATE
10 AMOUNT FOR SUCH INCOME TAX YEARS.

11 (II) (A) ANY SERVICES PROVIDED BY A CERTIFIED PUBLIC
12 ACCOUNTANT TO MEET THE REQUIREMENTS OF THIS SUBSECTION (5)(c)
13 MUST BE PERFORMED IN COLORADO.

14 (B) THE OFFICE SHALL DEVELOP A LIST OF CERTIFIED PUBLIC
15 ACCOUNTANTS THAT MEET THE REQUIREMENTS OF THIS SECTION. SUCH
16 LIST MUST BE MADE AVAILABLE TO ALL PRODUCTION COMPANIES AND
17 MUST BE POSTED ON THE OFFICE OF ECONOMIC DEVELOPMENT'S WEBSITE.

18 (d) THE OFFICE SHALL DEVELOP PROCEDURES FOR THE
19 ADMINISTRATION OF THIS SECTION, INCLUDING APPLICATION GUIDELINES
20 FOR PRODUCTION COMPANIES APPLYING TO RECEIVE A TAX CREDIT.

21 (7) A PRODUCTION COMPANY SHALL CLAIM THE CREDIT ALLOWED
22 UNDER SUBSECTION (3) OF THIS SECTION BY INCLUDING THE CREDIT
23 CERTIFICATE ISSUED TO THE PRODUCTION COMPANY BY THE OFFICE
24 PURSUANT TO SUBSECTION (6)(c)(I) OF THIS SECTION WITH ITS INCOME
25 TAX RETURN FOR THE INCOME TAX YEAR FOR WHICH THE CERTIFICATE WAS
26 ISSUED. IF THE AMOUNT OF THE TAX CREDIT EXCEEDS THE PRODUCTION
27 COMPANY'S INCOME TAXES DUE ON THE INCOME OF THE PRODUCTION

1 COMPANY FOR THE INCOME TAX YEAR, THE EXCESS CREDIT IS NOT CARRIED
2 FORWARD AND SHALL BE REFUNDED TO THE TAXPAYER.

3 (8) THE OFFICE OF ECONOMIC DEVELOPMENT AND THE OFFICE
4 SHALL JOINTLY REVIEW THE EFFECTIVENESS OF THE CREDIT AND REPORT
5 THE RESULTS OF THE REVIEW TO THE HOUSE OF REPRESENTATIVES FINANCE
6 COMMITTEE AND THE SENATE FINANCE COMMITTEE, OR THEIR SUCCESSOR
7 COMMITTEES, NO LATER THAN FEBRUARY 4, 2025.

8 (9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

9 **SECTION 2.** In Colorado Revised Statutes, 24-48.5-115, **amend**
10 (2)(g); and **repeal** (4) as follows:

11 **24-48.5-115. Film, television, and media - duties - loan**
12 **guarantee program.** (2) The office shall:

13 (g) Administer ~~the performance-based incentive~~ the income tax
14 credit for film production in Colorado as specified in ~~section 24-48.5-116~~
15 SECTION 39-22-549.

16 (4) ~~No later than July 1, 2017, the state auditor shall complete a~~
17 ~~performance audit of the office, the performance-based incentive program~~
18 ~~for film production in Colorado specified in section 24-48.5-116, and the~~
19 ~~loan guarantee program specified in subsection (3) of this section. The~~
20 ~~state auditor shall present the performance audit report to the legislative~~
21 ~~audit committee. After the performance audit report is released by the~~
22 ~~legislative audit committee, the state auditor shall provide copies, in~~
23 ~~accordance with section 24-1-136 (9), to the finance committees of the~~
24 ~~house of representatives and senate.~~

25 **SECTION 3.** In Colorado Revised Statutes, 24-48.5-116, **amend**
26 (1) introductory portion and (3); and **add** (6) as follows:

27 **24-48.5-116. Film, television, and media - performance-based**

1 **incentive for film production in Colorado - Colorado office of film,**
2 **television, and media operational account cash fund - creation -**
3 **definition.** (1) Subject to the provisions of this section, on or after July
4 1, 2012, BUT BEFORE JANUARY 1, 2024, AND ON OR AFTER JANUARY 1,
5 2025, any production company employing a workforce for any in-state
6 production activities made up of at least fifty percent Colorado residents
7 may claim a performance-based incentive in an amount as follows:

8 (3) THROUGH 2024, the office shall include data regarding the
9 number of production companies that claimed the performance-based
10 incentive pursuant to this section and the total amount of all incentives
11 claimed during the most recent fiscal year for which such information is
12 available in an annual report to the general assembly.

13 (6) A PRODUCTION COMPANY SHALL NOT APPLY AND THE OFFICE
14 SHALL NOT AWARD A PERFORMANCE-BASED INCENTIVE FOR ANY
15 QUALIFIED LOCAL EXPENDITURES FOR WHICH THE PRODUCTION COMPANY
16 HAS APPLIED, FOR AN INCOME TAX CREDIT PURSUANT TO SECTION
17 39-22-549.

18 **SECTION 4. Appropriation - adjustments to 2023 long bill.** To
19 implement this act, the cash funds appropriation from the Colorado office
20 of film, television, and media operational account cash fund created in
21 section 24-48.5-116 (5)(a), C.R.S., made in the annual general
22 appropriation act for the 2023-24 state fiscal year to the office of the
23 governor for use by economic development programs for Colorado office
24 of film, television, and media is decreased by \$282,417, and the related
25 FTE is increased by 1.3 FTE.

26 **SECTION 5. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2024 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.