

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

ENGROSSED

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

LLS NO. 24-1039.01 Jed Franklin x5484

HOUSE BILL 24-1358

HOUSE SPONSORSHIP

Herod and Snyder,

SENATE SPONSORSHIP

Mullica,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FILM INCENTIVE INCOME TAX CREDIT, AND, IN**
102 **CONNECTION THEREWITH, MAKING 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>.)

The bill adds established payments to loan-out companies as a qualified local expenditure for the purpose of qualifying for the film incentive income tax credit, removes a condition that the credit is available only in years that the amount of state revenues are in excess of the limitation of state fiscal year spending by at least \$50 million, and extends the deadline from February 4, 2025, to July 1, 2028, for a tax

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
Amended 2nd Reading
April 25, 2024

credit effectiveness study to be submitted to the finance committees of the house of representatives and the senate.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-559, **amend**
3 (2)(i)(VIII), (2)(i)(IX), (3), (5)(a), (6)(a) introductory portion, (6)(a)(I),
4 (6)(a)(II) introductory portion, (6)(b), (6)(c)(I), (6)(c)(II)(A), (6)(d), (7),
5 and (8); **add** (2)(i)(X); and **repeal** (5)(b) as follows:

6 **39-22-559. Film incentive tax credit - tax preference**
7 **performance statement - review - legislative declaration - definitions**
8 **- repeal.** (2) As used in this section, unless the context otherwise
9 requires:

10 (i) "Qualified local expenditure" means a payment made by a
11 production company operating in Colorado to a person or business in
12 Colorado in connection with production activities in Colorado. "Qualified
13 local expenditure" includes, but need not be limited to:

14 (VIII) Payments for other direct costs incurred by the film
15 production company that are deemed appropriate by the office; **and**

16 (IX) Payments of up to one million dollars per employee or
17 contractor, made by a production company to pay the wages or salaries of
18 employees or contractors who participate in the production activities. In
19 order for any wage or salary to be considered a qualified local
20 expenditure, all Colorado income taxes shall be withheld and paid either
21 by the production company or the individual. Any payments in excess of
22 one million dollars per employee or contractor shall be excluded; **AND**

23 (X) **PAYMENTS OF UP TO ONE MILLION DOLLARS PER CALENDAR**
24 **YEAR PER PERSONAL SERVICE CORPORATION, AS DEFINED IN SECTION**
25 **24-48.5-114 (4.5)(a), MADE BY A PRODUCTION COMPANY TO A PERSONAL**

1 SERVICE CORPORATION TO PAY THE WAGES OR SALARIES OF AN
2 EMPLOYEE-OWNER OF THE PERSONAL SERVICE CORPORATION, AS DEFINED
3 IN SECTION 24-48.5-114 (4.5)(b), WHO PARTICIPATES IN THE PRODUCTION
4 ACTIVITIES. IN ORDER FOR ANY WAGE OR SALARY TO BE CONSIDERED A
5 QUALIFIED LOCAL EXPENDITURE, THE PRODUCTION COMPANY MUST FILE
6 AN INFORMATION RETURN PURSUANT TO SECTION 39-22-604 (21)
7 REGARDING THE PAYMENTS MADE TO THE PERSONAL SERVICE
8 CORPORATION. ANY PAYMENTS IN EXCESS OF ONE MILLION DOLLARS PER
9 PERSONAL SERVICE CORPORATION ARE EXCLUDED.

10 (3) Subject to the limitations set forth in ~~subsection (5)~~
11 ~~SUBSECTIONS (5) AND (6)~~ of this section, for income tax years
12 commencing on or after January 1, 2024, ~~but before January 1, 2025,~~
13 ~~JANUARY 1, 2032,~~ there shall be allowed a film incentive tax credit with
14 respect to income taxes imposed pursuant to this article 22 to any
15 production company ~~MAKING AT LEAST ONE HUNDRED THOUSAND~~
16 ~~DOLLARS IN ACTUAL QUALIFIED LOCAL EXPENDITURES AND~~ employing a
17 workforce for any in-state production activity made up of at least fifty
18 percent Colorado residents in ~~the AN amount equal to:~~ ~~NOT TO EXCEED~~
19 ~~TWENTY-TWO PERCENT OF THE ACTUAL QUALIFIED LOCAL EXPENDITURES.~~

20 (a) ~~Twenty percent of the total amount of the production~~
21 ~~company's qualified local expenditures if the total of such expenditures~~
22 ~~equals or exceeds one hundred thousand dollars for a production company~~
23 ~~that originates production activities in Colorado;~~

24 (b) ~~Twenty percent of the total amount of the production~~
25 ~~company's qualified local expenditures if the total of such expenditures~~
26 ~~equals or exceeds two hundred fifty thousand dollars for a production~~
27 ~~company that produces a television commercial or video game and that~~

1 ~~does not originate production activities in Colorado but employs a~~
2 ~~workforce made up of at least fifty percent Colorado residents for any~~
3 ~~in-state production activity; and~~

4 (c) ~~Twenty-two percent of the total amount of the production~~
5 ~~company's qualified local expenditures if the executive director of the~~
6 ~~office of economic development determines, in the executive director's~~
7 ~~discretion, that the production company meets the criteria of either~~
8 ~~subsection (3)(a) or (3)(b) of this section and filmed in a rural community,~~
9 ~~or a marginalized urban center or used local infrastructure when filming.~~

10 (5) (a) ~~For the income tax year that commences during the 2024~~
11 ~~calendar year, AND FOR EACH CALENDAR YEAR THEREAFTER, the~~
12 ~~maximum aggregate amount of all tax credits allowed pursuant to~~
13 ~~subsection (3) THAT THE OFFICE MAY RESERVE PURSUANT TO SUBSECTION~~
14 ~~(6) of this section is five million dollars PER CALENDAR YEAR. if, based~~
15 ~~on the financial report prepared by the controller in accordance with~~
16 ~~section 24-77-106.5, the controller certifies that, for the state fiscal year~~
17 ~~that includes the first day of the calendar year the amount of state~~
18 ~~revenues in excess of the limitation of state fiscal year spending imposed~~
19 ~~by section 20 (7)(a) of article X of the state constitution for the state fiscal~~
20 ~~year that the voters of the state have not authorized the state to retain and~~
21 ~~spend and that are not required to be refunded pursuant to a refund~~
22 ~~mechanism set forth in sections 39-3-209, 39-3-210, or any other section~~
23 ~~other than the refund mechanisms described in part 20 of article 22 of this~~
24 ~~title 39 is at least fifty million dollars.~~

25 (b) ~~For all income tax years that commence in a single calendar~~
26 ~~year, if, based on the financial report prepared by the controller in~~
27 ~~accordance with section 24-77-106.5, the controller certifies that, for the~~

1 state fiscal year that includes the first day of the calendar year, the amount
2 of state revenues in excess of the limitation of state fiscal year spending
3 imposed by section 20 (7)(a) of article X of the state constitution for the
4 state fiscal year that the voters of the state have not authorized the state
5 to retain and spend and that are not required to be refunded pursuant to
6 a refund mechanism set forth in sections 39-3-209, 39-3-210, or any other
7 section other than the refund mechanisms described in part 20 of article
8 22 of this title 39 is less than fifty million dollars, then the tax credit
9 otherwise allowed under subsection (3) of this section is not allowed for
10 those income tax years unless the general assembly, acting by bill,
11 specifies a maximum aggregate amount of such tax credits that is allowed
12 for that income tax year.

13 (6) (a) For a production company to claim a tax credit pursuant to
14 subsection (3) of this section, the production company must apply to the
15 office FOR A TAX CREDIT RESERVATION, in a manner to be determined by
16 the office prior to beginning production activities in the state for the
17 project for which the production company is seeking a tax credit. The
18 application FOR A TAX CREDIT RESERVATION must include a statement of
19 intent by the production company to produce a film in Colorado for which
20 the production company will be eligible to receive the tax credit. The
21 production company must submit, in conjunction with the application, any
22 documentation necessary to demonstrate that:

23 (I) The production company's projected qualified local
24 expenditures will satisfy the minimum expenditures requirements
25 EXPENDITURE REQUIREMENT specified in subsection (3)(a) or (3)(b)
26 SUBSECTION (3) of this section, as applicable and, if applicable, the
27 requirements set forth in subsection (3)(c) of this section; and

1 (II) If the production company seeks a tax credit specified in
2 subsection (3)(a) SUBSECTION (3) of this section, the production company
3 will originate production activities in Colorado, including copies of
4 income tax forms, proof of voter registration, or copies of utility bills, to
5 provide documentary evidence that, as of the date of applying for a tax
6 credit:

7 (b) (I) The office shall review each application FOR A TAX CREDIT
8 RESERVATION submitted by a production company before the production
9 company begins work on a film in Colorado. Based on the information
10 provided in the production company's application ~~the office shall make~~
11 ~~an initial determination of whether the production company will be~~
12 ~~eligible to receive a tax credit and estimate the amount of the tax credit~~
13 ~~that may be granted to the production company. The office, with the~~
14 ~~approval of the Colorado economic development commission created in~~
15 ~~section 24-46-102, shall grant conditional written approval to a~~
16 ~~production company that, based on the information provided by the~~
17 ~~production company and on an analysis of such information by the office~~
18 ~~and the Colorado economic development commission, the production~~
19 ~~company will satisfy the requirements of subsection (3) of this section~~
20 ~~and be eligible to claim a tax credit. The office shall not grant conditional~~
21 ~~written approval to a production company until the production company~~
22 ~~and the office have entered into a contract. FOR A TAX CREDIT~~
23 ~~RESERVATION, THE OFFICE MAY DETERMINE THAT A PRODUCTION~~
24 ~~COMPANY IS ENTITLED TO A TAX CREDIT RESERVATION IN ACCORDANCE~~
25 ~~WITH THE PROVISIONS OF THIS SECTION. THE OFFICE SHALL ISSUE TAX~~
26 ~~CREDIT RESERVATIONS SUBJECT TO THE LIMITATIONS SET FORTH IN THIS~~
27 ~~SUBSECTION (6) AND IN SUBSECTION (5) OF THIS SECTION. THE OFFICE~~

1 SHALL NOT ISSUE TAX CREDIT RESERVATIONS AFTER DECEMBER 31, 2029.

2 (II) IF THE OFFICE RESERVES A TAX CREDIT FOR THE BENEFIT OF A
3 PRODUCTION COMPANY, THE OFFICE SHALL NOTIFY THE PRODUCTION
4 COMPANY IN WRITING OF THE RESERVATION AND THE AMOUNT RESERVED.

5 THE RESERVATION OF A TAX CREDIT BY THE OFFICE FOR A PRODUCTION
6 COMPANY DOES NOT ENTITLE THE PRODUCTION COMPANY TO THE
7 ISSUANCE OF A TAX CREDIT CERTIFICATE UNTIL THE PRODUCTION
8 COMPANY COMPLIES WITH ALL OF THE OTHER REQUIREMENTS SPECIFIED IN
9 THIS SECTION FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE. WHEN
10 THE OFFICE APPROVES A TAX CREDIT RESERVATION, THE OFFICE MAY ALSO
11 IMPOSE ADDITIONAL REQUIREMENTS, WHICH A PRODUCTION COMPANY
12 SHALL SATISFY AS PART OF COMPLETING THE PRODUCTION ACTIVITIES
13 BEFORE A TAX CREDIT CERTIFICATE IS ISSUED TO THE PRODUCTION
14 COMPANY.

15 (III) IF APPROVED, THE OFFICE MAY ISSUE A TAX CREDIT
16 RESERVATION TO A PRODUCTION COMPANY IN AN AMOUNT NOT TO EXCEED
17 TWENTY-TWO PERCENT OF THE ESTIMATED QUALIFIED LOCAL
18 EXPENDITURES.

19 (c) (I) (A) A PRODUCTION COMPANY SHALL COMPLETE THE
20 PRODUCTION ACTIVITIES IN COLORADO ON OR BEFORE DECEMBER 31,
21 2031. Upon completion of the production activities in Colorado, a
22 production company that received ~~conditional approval~~ for a tax credit
23 RESERVATION from the office must retain a certified public accountant
24 ~~licensed~~ LICENSED to practice in the state or a certified public accounting
25 firm that is registered in the state, to review and report in writing, and in
26 accordance with professional standards, regarding the accuracy of the
27 financial documents that detail the expenses incurred in the course of the

1 film production activities in Colorado. The certified public accountant's
2 written report must include documentation of the production company's
3 expenditures, including its actual qualified local expenditures, and any
4 documentation necessary to show that the production company employed
5 a workforce for the in-state production activities made up of at least fifty
6 percent Colorado residents. When the production company provides a
7 copy of the certified public accountant's written report and the production
8 company certifies in writing to the office that the amount of the
9 production company's actual qualified local expenditures equals or
10 exceeds the applicable minimum total amount of the production
11 company's qualified local expenditures as specified in subsection (3) of
12 this section, the office shall conduct a review of the certified public
13 accountant's written report to ensure the requirements of this section are
14 met. If the office is satisfied that the requirements of this section are met,
15 and the office confirms that the certified public accountant who provided
16 the written report is from the list described in subsection (6)(c)(II)(B) of
17 this section, then the office shall issue to the production company a tax
18 credit certificate that evidences the production company's right to claim
19 the tax credit allowed under subsection (3) of this section. The tax credit
20 certificate must include the taxpayer's name, the taxpayer's social security
21 number or federal employer identification number, the approved tax
22 credit amount, the income tax year for which the tax credit is being
23 allowed, and any other information that the executive director of the
24 department of revenue may require. ~~The office shall not issue tax credit~~
25 ~~certificates for all income tax years that commence in a single income tax~~
26 ~~year in excess of the maximum aggregate amount for such income tax~~
27 ~~years.~~

1 (B) IF THE OFFICE DETERMINES THAT A PRODUCTION COMPANY HAS
2 FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (6), THE
3 OFFICE SHALL NOTIFY THE PRODUCTION COMPANY AND MAY RESCIND THE
4 TAX CREDIT RESERVATION. IF THE OFFICE RESCINDS THE TAX CREDIT
5 RESERVATION, THE PRODUCTION COMPANY MAY SUBMIT A NEW TAX
6 CREDIT RESERVATION APPLICATION PURSUANT TO THIS SUBSECTION (6).
7 WHEN THE OFFICE RESCINDS A TAX CREDIT RESERVATION IN A CALENDAR
8 YEAR, THE MAXIMUM AGGREGATE AMOUNT OF ALL TAX CREDITS THAT THE
9 OFFICE MAY RESERVE IN THAT CALENDAR YEAR SET FORTH IN SUBSECTION
10 (5)(a) OF THIS SECTION IS INCREASED BY THE AMOUNT OF THE RESCINDED
11 TAX CREDIT RESERVATION.

12 (II) (A) Any services provided by a certified public accountant to
13 meet the requirements of this ~~subsection (5)(c)~~ SUBSECTION (6)(c) must
14 be performed in Colorado.

15 (d) The office shall develop procedures for the administration of
16 this section, including application guidelines for production companies
17 applying to receive a tax credit RESERVATION.

18 (7) (a) A production company shall claim the credit allowed under
19 subsection (3) of this section by including the credit certificate issued to
20 the production company by the office pursuant to subsection (6)(c)(I) of
21 this section with its income tax return for the income tax year for which
22 the certificate was issued. If the amount of the tax credit exceeds the
23 production company's income taxes due on the income of the production
24 company for the income tax year, the excess credit is not carried forward
25 and shall be refunded to the taxpayer.

26 (b) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
27 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME

1 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
2 AN ELECTRONIC REPORT OF EACH PRODUCTION COMPANY TO WHICH THE
3 OFFICE ISSUED A TAX CREDIT CERTIFICATE FOR THE PRECEDING INCOME
4 TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- 5 (I) THE PRODUCTION COMPANY'S NAME;
- 6 (II) THE AMOUNT OF THE INCOME TAX CREDIT; AND
- 7 (III) THE PRODUCTION COMPANY'S SOCIAL SECURITY NUMBER OR
8 THE PRODUCTION COMPANY'S COLORADO ACCOUNT NUMBER AND
9 FEDERAL EMPLOYER IDENTIFICATION NUMBER.

10 (8) The office of economic development and the office shall
11 jointly review the effectiveness of the credit and report the results of the
12 review to the house of representatives finance committee and the senate
13 finance committee, or their successor committees, no later than February
14 ~~4, 2025~~, JULY 1, 2028.

15 **SECTION 2. Appropriation.** For the 2024-25 state fiscal year,
16 \$29,120 is appropriated to the office of the governor for use by economic
17 development programs. This appropriation is from the general fund. To
18 implement this act, the office may use this appropriation for the Colorado
19 office of film, television, and media.

20 **SECTION 3. Appropriation.** For the 2024-25 state fiscal year,
21 \$400,000 is appropriated to the office of the governor for use by
22 economic development programs. This appropriation is from the
23 Colorado office of film, television, and media operational account cash
24 fund created in section 24-48.5-116 (5)(a), C.R.S. To implement this act,
25 the office may use this appropriation for the Colorado office of film,
26 television, and media.

27 **SECTION 4. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2024 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.