

CHAPTER 379

GOVERNMENT - STATE

HOUSE BILL 23-1309

BY REPRESENTATIVE(S) Herod and Snyder, Amabile, Bacon, Bird, Boesenecker, Daugherty, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Lieder, Lindsay, Lynch, Mabrey, McCormick, McLachlan, Michaelson Jenet, Ricks, Titone, Valdez, Velasco, Weinberg, Woodrow, Young, Brown, Jodeh, Lindstedt, Lukens, Mauro, Ortiz, Story, Taggart, McCluskie; also SENATOR(S) Jaquez Lewis, Bridges, Cutter, Hansen, Marchman, Priola, Roberts, Rodriguez, Sullivan, Winter F.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-559 as follows:

39-22-559. Film incentive tax credit - tax preference performance statement - review - legislative declaration - definitions - repeal. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

(II) WITH A COMPETITIVE FILM INCENTIVE THAT IS COMPARABLE TO SURROUNDING WESTERN STATES WITH SIMILAR BEAUTIFUL LANDSCAPES, COLORADO WILL HAVE THE ABILITY TO ATTRACT HIGH-PROFILE PROJECTS THAT WILL BRING IN MORE FILM TOURISM AND INCREASE COLORADO'S IMPACT ON THE GLOBAL FILM INDUSTRY; AND

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

(b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION,

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THE TAX CREDIT PROVIDED FOR IN THIS SECTION IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS AND TO PROVIDE A REDUCTION IN INCOME TAX LIABILITY FOR CERTAIN BUSINESS OR INDIVIDUALS BY ALLOWING PRODUCTION COMPANIES TO RECEIVE A CREDIT AGAINST INCOME TAX FOR QUALIFIED EXPENDITURES IF CERTAIN CRITERIA ARE MET. SPECIFICALLY, THIS TAX EXPENDITURE IS INTENDED TO INCENTIVIZE PRODUCTION COMPANIES TO FILM IN COLORADO AND ATTRACT MORE FILM PROJECTS, IN PARTICULAR HIGH-BUDGET FILM PROJECTS, THAT WILL EMPLOY MORE COLORADANS.

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

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

(a) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED IN THIS SECTION.

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

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

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

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

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

(g) "PRODUCTION ACTIVITIES" MEANS THE SHOOTING OF A FILM, SUPPORT ACTIVITIES RELATED TO SUCH SHOOTING, AND ANY PRESHOOTING OR POSTSHOOTING ACTIVITIES THAT COMMENCE ON OR AFTER JANUARY 1, 2024, AND THAT ARE NECESSARY TO PRODUCE A FINISHED FILM, INCLUDING BUT NOT LIMITED TO EDITING AND THE CREATION OF SETS, PROPS, COSTUMES, AND SPECIAL EFFECTS.

(h) "PRODUCTION COMPANY" MEANS A PERSON, INCLUDING A CORPORATION OR OTHER BUSINESS ENTITY, THAT ENGAGES IN PRODUCTION ACTIVITIES FOR THE PURPOSE OF PRODUCING ALL OR ANY PORTION OF A FILM IN COLORADO.

(i) "QUALIFIED LOCAL EXPENDITURE" MEANS A PAYMENT MADE BY A PRODUCTION COMPANY OPERATING IN COLORADO TO A PERSON OR BUSINESS IN COLORADO IN CONNECTION WITH PRODUCTION ACTIVITIES IN COLORADO. "QUALIFIED LOCAL EXPENDITURE" INCLUDES, BUT NEED NOT BE LIMITED TO:

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

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

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

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

(V) PAYMENTS MADE FOR THE COSTS OF RENTING FACILITIES AND EQUIPMENT, INCLUDING LOCATION FEES, LEASING VEHICLES, AND PROVIDING FOOD AND LODGING TO PEOPLE WORKING ON THE FILM PRODUCTION;

(VI) PAYMENTS FOR AIRFARE PURCHASED THROUGH A COLORADO-BASED TRAVEL AGENCY OR COMPANY;

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

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

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

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

(a) TWENTY PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION COMPANY'S

QUALIFIED LOCAL EXPENDITURES IF THE TOTAL OF SUCH EXPENDITURES EQUALS OR EXCEEDS ONE HUNDRED THOUSAND DOLLARS FOR A PRODUCTION COMPANY THAT ORIGINATES PRODUCTION ACTIVITIES IN COLORADO;

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

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

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

(5) (a) FOR THE INCOME TAX YEAR THAT COMMENCES DURING THE 2024 CALENDAR YEAR, THE MAXIMUM AGGREGATE AMOUNT OF ALL TAX CREDITS ALLOWED PURSUANT TO SUBSECTION (3) OF THIS SECTION IS FIVE MILLION DOLLARS IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, THE CONTROLLER CERTIFIES THAT, FOR THE STATE FISCAL YEAR THAT INCLUDES THE FIRST DAY OF THE CALENDAR YEAR THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE STATE FISCAL YEAR THAT THE VOTERS OF THE STATE HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE NOT REQUIRED TO BE REFUNDED PURSUANT TO A REFUND MECHANISM SET FORTH IN SECTIONS 39-3-209, 39-3-210, OR ANY OTHER SECTION OTHER THAN THE REFUND MECHANISMS DESCRIBED IN PART 20 OF ARTICLE 22 OF THIS TITLE 39 IS AT LEAST FIFTY MILLION DOLLARS.

(b) FOR ALL INCOME TAX YEARS THAT COMMENCE IN A SINGLE CALENDAR YEAR, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, THE CONTROLLER CERTIFIES THAT, FOR THE STATE FISCAL YEAR THAT INCLUDES THE FIRST DAY OF THE CALENDAR YEAR, THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE STATE FISCAL YEAR THAT THE VOTERS OF THE STATE HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND AND THAT ARE NOT REQUIRED TO BE REFUNDED PURSUANT TO A REFUND MECHANISM SET FORTH IN SECTIONS 39-3-209, 39-3-210, OR ANY OTHER SECTION OTHER THAN THE REFUND MECHANISMS

DESCRIBED IN PART 20 OF ARTICLE 22 OF THIS TITLE 39 IS LESS THAN FIFTY MILLION DOLLARS, THEN THE TAX CREDIT OTHERWISE ALLOWED UNDER SUBSECTION (3) OF THIS SECTION IS NOT ALLOWED FOR THOSE INCOME TAX YEARS UNLESS THE GENERAL ASSEMBLY, ACTING BY BILL, SPECIFIES A MAXIMUM AGGREGATE AMOUNT OF SUCH TAX CREDITS THAT IS ALLOWED FOR THAT INCOME TAX YEAR.

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

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

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

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

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

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

(b) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY A PRODUCTION COMPANY BEFORE THE PRODUCTION COMPANY BEGINS WORK ON A FILM IN COLORADO. BASED ON THE INFORMATION PROVIDED IN THE PRODUCTION COMPANY'S APPLICATION, THE OFFICE SHALL MAKE AN INITIAL DETERMINATION OF WHETHER THE PRODUCTION COMPANY WILL BE ELIGIBLE TO RECEIVE A TAX CREDIT AND ESTIMATE THE AMOUNT OF THE TAX CREDIT THAT MAY BE GRANTED TO THE PRODUCTION COMPANY. THE OFFICE, WITH THE APPROVAL OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, SHALL GRANT CONDITIONAL WRITTEN APPROVAL TO A PRODUCTION COMPANY THAT, BASED ON THE INFORMATION PROVIDED BY THE PRODUCTION COMPANY AND ON AN

ANALYSIS OF SUCH INFORMATION BY THE OFFICE AND THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, THE PRODUCTION COMPANY WILL SATISFY THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION AND BE ELIGIBLE TO CLAIM A TAX CREDIT. THE OFFICE SHALL NOT GRANT CONDITIONAL WRITTEN APPROVAL TO A PRODUCTION COMPANY UNTIL THE PRODUCTION COMPANY AND THE OFFICE HAVE ENTERED INTO A CONTRACT.

(c) (I) UPON COMPLETION OF PRODUCTION ACTIVITIES IN COLORADO, A PRODUCTION COMPANY THAT RECEIVED CONDITIONAL APPROVAL FOR A TAX CREDIT FROM THE OFFICE MUST RETAIN A CERTIFIED PUBLIC ACCOUNTANT LICENCED TO PRACTICE IN THE STATE OR A CERTIFIED PUBLIC ACCOUNTING FIRM THAT IS REGISTERED IN THE STATE, TO REVIEW AND REPORT IN WRITING, AND IN ACCORDANCE WITH PROFESSIONAL STANDARDS, REGARDING THE ACCURACY OF THE FINANCIAL DOCUMENTS THAT DETAIL THE EXPENSES INCURRED IN THE COURSE OF THE FILM PRODUCTION ACTIVITIES IN COLORADO. THE CERTIFIED PUBLIC ACCOUNTANT'S WRITTEN REPORT MUST INCLUDE DOCUMENTATION OF THE PRODUCTION COMPANY'S ACTUAL EXPENDITURES, INCLUDING ITS ACTUAL QUALIFIED LOCAL EXPENDITURES, AND ANY DOCUMENTATION NECESSARY TO SHOW THAT THE PRODUCTION COMPANY EMPLOYED A WORKFORCE FOR THE IN-STATE PRODUCTION ACTIVITIES MADE UP OF AT LEAST FIFTY PERCENT COLORADO RESIDENTS. WHEN THE PRODUCTION COMPANY PROVIDES A COPY OF THE CERTIFIED PUBLIC ACCOUNTANT'S WRITTEN REPORT AND THE PRODUCTION COMPANY CERTIFIES IN WRITING TO THE OFFICE THAT THE AMOUNT OF THE PRODUCTION COMPANY'S ACTUAL QUALIFIED LOCAL EXPENDITURES EQUALS OR EXCEEDS THE APPLICABLE MINIMUM TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THE OFFICE SHALL CONDUCT A REVIEW OF THE CERTIFIED PUBLIC ACCOUNTANT'S WRITTEN REPORT TO ENSURE THE REQUIREMENTS OF THIS SECTION ARE MET. IF THE OFFICE IS SATISFIED THAT THE REQUIREMENTS OF THIS SECTION ARE MET, AND THE OFFICE CONFIRMS THAT THE CERTIFIED PUBLIC ACCOUNTANT WHO PROVIDED THE WRITTEN REPORT IS FROM THE LIST DESCRIBED IN SUBSECTION (6)(c)(II)(B) OF THIS SECTION, THEN THE OFFICE SHALL ISSUE TO THE PRODUCTION COMPANY A TAX CREDIT CERTIFICATE THAT EVIDENCES THE PRODUCTION COMPANY'S RIGHT TO CLAIM THE TAX CREDIT ALLOWED UNDER SUBSECTION (3) OF THIS SECTION. THE TAX CREDIT CERTIFICATE MUST INCLUDE THE TAXPAYER'S NAME, THE TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, THE APPROVED TAX CREDIT AMOUNT, THE INCOME TAX YEAR FOR WHICH THE TAX CREDIT IS BEING ALLOWED, AND ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REQUIRE. THE OFFICE SHALL NOT ISSUE TAX CREDIT CERTIFICATES FOR ALL INCOME TAX YEARS THAT COMMENCE IN A SINGLE INCOME TAX YEAR IN EXCESS OF THE MAXIMUM AGGREGATE AMOUNT FOR SUCH INCOME TAX YEARS.

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

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

(d) THE OFFICE SHALL DEVELOP PROCEDURES FOR THE ADMINISTRATION OF THIS

SECTION, INCLUDING APPLICATION GUIDELINES FOR PRODUCTION COMPANIES APPLYING TO RECEIVE A TAX CREDIT.

(7) A PRODUCTION COMPANY SHALL CLAIM THE CREDIT ALLOWED UNDER SUBSECTION (3) OF THIS SECTION BY INCLUDING THE CREDIT CERTIFICATE ISSUED TO THE PRODUCTION COMPANY BY THE OFFICE PURSUANT TO SUBSECTION (6)(c)(I) OF THIS SECTION WITH ITS INCOME TAX RETURN FOR THE INCOME TAX YEAR FOR WHICH THE CERTIFICATE WAS ISSUED. IF THE AMOUNT OF THE TAX CREDIT EXCEEDS THE PRODUCTION COMPANY'S INCOME TAXES DUE ON THE INCOME OF THE PRODUCTION COMPANY FOR THE INCOME TAX YEAR, THE EXCESS CREDIT IS NOT CARRIED FORWARD AND SHALL BE REFUNDED TO THE TAXPAYER.

(8) THE OFFICE OF ECONOMIC DEVELOPMENT AND THE OFFICE SHALL 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, 2025.

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

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

24-48.5-115. Film, television, and media - duties - loan guarantee program.

(2) The office shall:

(g) Administer ~~the performance-based incentive~~ the income tax credit for film production in Colorado as specified in ~~section 24-48.5-116~~ SECTION 39-22-559.

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

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

24-48.5-116. Film, television, and media - performance-based incentive for film production in Colorado - Colorado office of film, television, and media operational account cash fund - creation - definition. (1) Subject to the provisions of this section, on or after July 1, 2012, BUT BEFORE JANUARY 1, 2024, AND ON OR AFTER JANUARY 1, 2025, any production company employing a workforce for any in-state production activities made up of at least fifty percent Colorado residents may claim a performance-based incentive in an amount as follows:

(3) THROUGH 2024, the office shall include data regarding the number of

production companies that claimed the performance-based incentive pursuant to this section and the total amount of all incentives claimed during the most recent fiscal year for which such information is available in an annual report to the general assembly.

(6) A PRODUCTION COMPANY SHALL NOT APPLY AND THE OFFICE SHALL NOT AWARD A PERFORMANCE-BASED INCENTIVE FOR ANY QUALIFIED LOCAL EXPENDITURES FOR WHICH THE PRODUCTION COMPANY HAS APPLIED, FOR AN INCOME TAX CREDIT PURSUANT TO SECTION 39-22-559.

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

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

Approved: June 5, 2023