

CO H 1354, Introduced

Colorado

SUMMARY: Concerns income tax credits for film production activities in the state.

Legislative History and Analysis Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status 03/06/2020 INTRODUCED.

03/06/2020 To HOUSE Committee on BUSINESS AFFAIRS AND LABOR.

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LLS NO. 20-1087.01 Esther van Mourik x4215 HOUSE BILL 20-1354

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House Committees Senate Committees Business Affairs & Labor

Finance Appropriations

A BILL FOR AN ACT

CONCERNING INCOME TAX CREDITS FOR FILM PRODUCTION ACTIVITIES IN THE STATE.

Bill Summary

The bill creates the film, television, and media tax credit. The credit is available to a production

company employing a workforce of at least 50% Colorado residents for production activities in the state. For production activities in a prioritized area, defined to mean a nonmetropolitan county or municipality with a population of 150,000 or less, the credit is up to 22% of the total qualified local expenditures. For production activities not in a prioritized area, the credit is up to 18% of the qualified local expenditures. The credit must be authorized and issued by the Colorado office of film, television, and media. Once issued, the credits may be used in the year issued or carried forward by the production company for up to 5 income tax years. The credits may also be transferred to another taxpayer to be used or carried forward as a credit against that taxpayer's income tax liability. The office of economic development is required to establish a system to track and verify the issuance, transfer, and ownership of the credits.

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

SECTION 1.

In Colorado Revised Statutes, 24-48.5-116, amend (3) 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 - **report** - definition.

- (3) 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. **THE OFFICE SHALL ALSO INCLUDE THE INFORMATION REQUIRED BY SECTION 39-22-543 CONCERNING THE FILM, TELEVISION, AND MEDIA TAX CREDIT IN THE REPORT. NOTWITHSTANDING SECTION 24-1-136 (11)THE REQUIREMENT TO SUBMIT THIS REPORT CONTINUES INDEFINITELY.**

SECTION 2.

In Colorado Revised Statutes, add 39-22-543 as follows:

39-22-543. Transferable tax credits for film, television, and media production in Colorado - legislative declaration - definitions.

(1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

- (I) AFTER YEARS OF LOW INCENTIVE FUNDING, COLORADO'S FILM INDUSTRY IS IN DECLINE WHILE THE GLOBAL DEMAND FOR FILM, TELEVISION, AND MEDIA HAS NEVER BEEN GREATER. COLORADO'S FILM, TELEVISION, AND MEDIA BUSINESSES ARE CLOSING OR STAGNATING. BUSINESS OWNERS ARE MOVING TO OTHER STATES AND TAKING JOBS, INFRASTRUCTURE, AND TAX DOLLARS WITH THEM.**
- (II) AS A RESULT, THE STATE IS UNABLE TO PROVIDE CAREER OPPORTUNITIES FOR ITS FILM AND MEDIA STUDENTS, WHO ARE INCREASINGLY MOVING TO OTHER STATES AFTER GRADUATING, EVEN THOUGH MANY WOULD PREFER TO STAY. WITH THE COLLEGE OPPORTUNITY FUND HELPING TO**

SUBSIDIZE THE TUITION OF IN-STATE STUDENTS, COLORADO TAXPAYERS ARE SUBSIDIZING FILM AND MEDIA EDUCATIONS THAT INCREASINGLY BENEFIT OTHER STATES.

(III) COLORADO'S RURAL COMMUNITIES ARE ALSO LOSING INVESTMENT. PRODUCTION COMPANIES ARE TAKING THEIR PRODUCTIONS TO NEIGHBORING STATES THAT PROVIDE GREATER INCENTIVES, SO COLORADO'S RURAL AREAS AND SMALLER TOWNS ARE NO LONGER RECEIVING THE BENEFITS THAT COME FROM LOCAL SHOOT, SUCH AS SPENDING AT LOCAL BUSINESSES AND INCREASED LOCAL SALES TAX.

(IV) OFFERING A TRANSFERABLE TAX CREDIT TO PRODUCTION COMPANIES THAT PRODUCE FILM, TELEVISION, AND MEDIA IN COLORADO CAN ENCOURAGE AND EMPOWER THOSE PRODUCTION COMPANIES TO DO BUSINESS IN COLORADO. IT CAN GROW COLORADO'S TAX BASE, PROVIDE CAREER OPPORTUNITIES FOR COLORADO'S STUDENTS, AND BRING INVESTMENT BACK TO RURAL COLORADO.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE INTENDED PURPOSE OF THE TAX CREDIT CREATED IN THIS SECTION IS TO INCENTIVIZE THE PRODUCTION OF FILM, TELEVISION, AND MEDIA IN COLORADO.

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

(a) "CERTIFIED PUBLIC ACCOUNTANT" MEANS A CERTIFIED PUBLIC ACCOUNTANT LICENSED TO PRACTICE IN THE STATE OR A CERTIFIED PUBLIC ACCOUNTING FIRM THAT IS REGISTERED IN THE STATE.

(b) "COMPLETE" OR "COMPLETION" MEANS THE DATE THAT A PROJECT'S PRODUCTION ACTIVITIES HAVE CONCLUDED IN THE STATE.

(c) "CONDITIONAL APPROVAL" MEANS THE WRITTEN CONDITIONAL APPROVAL DESCRIBED IN SUBSECTION (4)(b) OF THIS SECTION.

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

(e) "OFFICE OF FILM, TELEVISION, AND MEDIA" OR "OFFICE" MEANS THE COLORADO OFFICE OF FILM, TELEVISION, AND MEDIA CREATED IN SECTION 24-48.5-115.

(f) "PRIORITIZED AREA" MEANS A MUNICIPALITY OR COUNTY WITH A POPULATION OF LESS THAN ONE HUNDRED FIFTY THOUSAND PEOPLE ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS THAT IS NOT PART OF THE DENVER-AURORA-

BOULDER COMBINED STATISTICAL AREA OR THE COLORADO SPRINGS METROPOLITAN STATISTICAL AREA DESIGNATED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET.

- (g) "PRODUCTION ACTIVITIES" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-48.5-114 (5).**
 - (h) "PRODUCTION COMPANY" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-48.5-114 (6).**
 - (i) "PROJECT" MEANS A PROJECT BY A PRODUCTION COMPANY THAT EMPLOYS A WORKFORCE FOR ANY IN-STATE PRODUCTION ACTIVITIES MADE UP OF AT LEAST FIFTY PERCENT COLORADO RESIDENTS.**
 - (j) "QUALIFIED LOCAL EXPENDITURES" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-48.5-114 (7).**
 - (k) "TAXPAYER" MEANS AN INDIVIDUAL, A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE 22, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR TRUST, OR A PARTNER, MEMBER, OR SUBCHAPTER S SHAREHOLDER OF A PASS-THROUGH ENTITY.**
 - (l) "TRANSFeree" MEANS A TAXPAYER WHO PURCHASES A TAX CREDIT AS ALLOWED IN SUBSECTION (9) OF THIS SECTION.**
- (3) SUBJECT TO THE PROVISIONS OF THIS SECTION AND EXCEPT AS PROVIDED IN SUBSECTION (6) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2026, A PRODUCTION COMPANY IS ENTITLED TO CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 AS FOLLOWS:**
- (a) FOR A PROJECT OCCURRING IN A PRIORITIZED AREA, AN AMOUNT UP TO TWENTY-TWO PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES INCURRED IN THE PRIORITIZED AREA DURING THE PROJECT IS ALLOWED IN THE TAX YEAR THAT THE PROJECT IS COMPLETE; AND**
 - (b) FOR A PROJECT NOT OCCURRING IN A PRIORITIZED AREA, AN AMOUNT UP TO EIGHTEEN PERCENT OF THE TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES INCURRED DURING THE PROJECT IS ALLOWED IN THE TAX YEAR THAT THE PROJECT IS COMPLETE.**
- (4)(a) TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY SHALL APPLY TO THE OFFICE, IN A MANNER TO BE DETERMINED BY THE OFFICE, PRIOR TO BEGINNING THE PROJECT IN THE STATE FOR WHICH THE PRODUCTION COMPANY IS SEEKING THE TAX CREDITS. THE APPLICATION MUST INCLUDE A STATEMENT OF INTENT BY THE PRODUCTION COMPANY**

TO COMMENCE A PROJECT IN THE STATE FOR WHICH THE PRODUCTION COMPANY WILL BE ELIGIBLE TO RECEIVE THE TAX CREDIT. THE PRODUCTION COMPANY SHALL SUBMIT, IN CONJUNCTION WITH THE APPLICATION, ANY DOCUMENTATION NECESSARY TO DEMONSTRATE WHERE THE PROJECT WILL TAKE PLACE, WHETHER IN A PRIORITIZED AREA, NOT IN A PRIORITIZED AREA, OR BOTH.

(b) (i) THE OFFICE SHALL REVIEW EACH APPLICATION SUBMITTED BY A PRODUCTION COMPANY BEFORE THE PRODUCTION COMPANY BEGINS A PROJECT IN THE STATE. 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 CLAIM A TAX CREDIT AND SHALL MAKE AN INITIAL ESTIMATE OF THE AMOUNT OF THE TAX CREDIT. THE OFFICE, WITH APPROVAL OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, SHALL GRANT CONDITIONAL APPROVAL IN WRITING TO A PRODUCTION COMPANY THAT, BASED ON THE INFORMATION PROVIDED BY THE PRODUCTION COMPANY AND BASED ON AN ANALYSIS OF SUCH INFORMATION BY THE OFFICE AND THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, SATISFIES THE REQUIREMENTS OF THIS SECTION FOR ELIGIBILITY TO CLAIM SUCH TAX CREDIT. WHEN GRANTING CONDITIONAL APPROVALS, THE OFFICE SHALL TAKE INTO ACCOUNT THE CAP ON TAX CREDIT CERTIFICATES THAT MAY BE ISSUED IN ONE INCOME TAX YEAR PURSUANT TO SUBSECTION (6) OF THIS SECTION. THE CONDITIONAL APPROVAL MUST INCLUDE THE MAXIMUM AMOUNT OF THE TAX CREDIT THAT A PRODUCTION COMPANY MAY CLAIM FOR THE PROJECT AND THE OFFICE MAY REDUCE THE MAXIMUM AMOUNT OF THE TAX CREDIT IN THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (5)(b)(i) OF THIS SECTION SUBJECT TO THE WRITTEN AGREEMENT BETWEEN THE PRODUCTION COMPANY AND THE OFFICE. A PRODUCTION COMPANY SHALL NOT CLAIM A TAX CREDIT UNDER THIS SECTION WITHOUT A TAX CREDIT CERTIFICATE ISSUED BY THE OFFICE AS PROVIDED IN SUBSECTION (5) OF THIS SECTION.

(ii) A PRODUCTION COMPANY SHALL COMPLETE THE PROJECT NO LATER THAN TWO YEARS AFTER THE ISSUANCE OF THE CONDITIONAL APPROVAL. THE OFFICE SHALL WORK WITH THE PRODUCTION COMPANY TO DETERMINE AN APPROPRIATE PROJECT COMPLETION DATE WITHIN THE TWO-YEAR PERIOD AFTER GRANTING CONDITIONAL APPROVAL. IF THE PRODUCTION COMPANY HAS NOT ACHIEVED PROJECT COMPLETION BY THE AGREED-UPON DATE, THE OFFICE MAY REVOKE THE CONDITIONAL APPROVAL AND INSTEAD GRANT CONDITIONAL APPROVAL FOR OTHER PROJECTS.

(5)(a) UPON COMPLETION OF PRODUCTION ACTIVITIES IN THE STATE, A PRODUCTION COMPANY THAT RECEIVED CONDITIONAL WRITTEN

APPROVAL FROM THE OFFICE TO CLAIM A TAX CREDIT FOR A PROJECT SHALL RETAIN A CERTIFIED PUBLIC ACCOUNTANT TO REVIEW AND REPORT IN WRITING, AND IN ACCORDANCE WITH PROFESSIONAL STANDARDS, REGARDING THE ACCURACY OF THE FINANCIAL DOCUMENTS THAT DETAIL THE AMOUNT AND LOCATION OF THE EXPENSES INCURRED IN THE COURSE OF THE PROJECT IN THE STATE. THE CERTIFIED PUBLIC ACCOUNTANT'S WRITTEN REPORT SHALL 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.

- (b)(I) 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 THE AMOUNT AND LOCATION OF THE PRODUCTION COMPANY'S ACTUAL QUALIFIED LOCAL EXPENDITURES, 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 (5)(b)(III) OF THIS SECTION, THEN THE OFFICE SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE PRODUCTION COMPANY STATING THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED, SUBJECT TO THE MAXIMUM AMOUNT OF THE TAX CREDIT SET FORTH IN THE CONDITIONAL APPROVAL.
 - (II) ANY SERVICES OF A CERTIFIED PUBLIC ACCOUNTANT PROVIDED TO MEET THE REQUIREMENTS OF THIS SUBSECTION (5) MUST BE PERFORMED IN THE STATE.
 - (III) THE OFFICE SHALL DEVELOP A LIST OF CERTIFIED PUBLIC ACCOUNTANTS THAT MEET THE REQUIREMENTS OF THIS SECTION. THE OFFICE SHALL MAKE THE LIST AVAILABLE TO ALL PRODUCTION COMPANIES AND SHALL ENSURE THE LIST IS POSTED ON THE OFFICE OF ECONOMIC DEVELOPMENT'S WEBSITE.
- (c) THE OFFICE SHALL DEVELOP PROCEDURES FOR THE ADMINISTRATION OF THIS SECTION, INCLUDING APPLICATION GUIDELINES FOR PRODUCTION COMPANIES APPLYING TO RECEIVE, USE, CARRY FORWARD, AND TRANSFER TAX CREDITS PURSUANT TO THIS SECTION.
- (d)(I) AFTER A TAX CREDIT CERTIFICATE IS ISSUED, THE PRODUCTION COMPANY MAY, AFTER COMPLYING WITH ANY REQUIREMENTS FOR NOTICE, VERIFICATION, OR APPROVAL

SPECIFIED IN ACCORDANCE WITH THIS SECTION:

- (A) USE THE TAX CREDIT AS AN OFFSET AGAINST THE PRODUCTION COMPANY'S INCOME TAX DUE UNDER THIS ARTICLE 22 IN THE INCOME TAX YEAR THAT THE TAX CREDIT IS ISSUED;**
 - (B) CARRY FORWARD THE TAX CREDIT TO BE USED AGAINST THE PRODUCTION COMPANY'S INCOME TAX DUE UNDER THIS ARTICLE 22 FOR NO MORE THAN FIVE YEARS, USING THE CARRIED FORWARD TAX CREDIT IN THE EARLIEST INCOME TAX YEARS POSSIBLE; OR**
 - (C) TRANSFER THE TAX CREDIT DURING THE CARRYFORWARD PERIOD DESCRIBED IN SUBSECTION (5)(d)(I)(B) OF THIS SECTION AS ALLOWED IN SUBSECTION (9) OF THIS SECTION.**
- (II) THE FIVE-YEAR CARRY-FORWARD PERIOD COMMENCES WHEN THE TAX CREDIT CERTIFICATE IS ISSUED IN ACCORDANCE WITH SUBSECTION (5)(b) OF THIS SECTION. AFTER FIVE YEARS, A TAX CREDIT OR PORTION OF A TAX CREDIT THAT REMAINS UNUSED OR UNTRANSFERRED BY THE PRODUCTION COMPANY MAY NOT BE CLAIMED, AND IS NOT REFUNDABLE.**
- (6) THE OFFICE SHALL NOT GRANT TAX CREDIT CERTIFICATES TOTALING MORE THAN FIVE MILLION DOLLARS PER INCOME TAX YEAR.**
 - (7) TO USE A TAX CREDIT ISSUED UNDER THIS SECTION, THE PRODUCTION COMPANY OR THE TRANSFEREE MUST ATTACH THE TAX CREDIT CERTIFICATE AS PART OF THE TAXPAYER'S TAX RETURN BY THE DUE DATE OF THE RETURN, INCLUDING EXTENSIONS, FOR THE TAX YEAR FOR WHICH THE PRODUCTION COMPANY OR TRANSFEREE IS ELIGIBLE TO USE THE CREDIT IN ACCORDANCE WITH THIS SECTION.**
 - (8) THE OFFICE SHALL POST ON ITS WEBSITE ALL NONCONFIDENTIAL INFORMATION RELATED TO THE TREATMENT OF THE INCOME TAX CREDITS AS SPECIFIED IN THIS SECTION. THIS SECTION SHALL NOT BE CONSTRUED TO ABROGATE THE CONFIDENTIALITY PROVISIONS SET FORTH IN SECTION 39-21-113.**
 - (9)(a) IF THE PRODUCTION COMPANY CHOOSES TO TRANSFER A TAX CREDIT, THEN THE TAX CREDIT IS FREELY TRANSFERABLE AND ASSIGNABLE TO ONE OR MORE TAXPAYERS, SUBJECT TO THE OFFICE OF ECONOMIC DEVELOPMENT'S APPROVAL AND SUBJECT TO ANY NOTICE AND VERIFICATION REQUIREMENTS TO BE DETERMINED BY THE OFFICE OF ECONOMIC DEVELOPMENT; EXCEPT THAT THE PRODUCTION COMPANY MAY ONLY TRANSFER THE PORTION OF THE TAX CREDIT THAT THE PRODUCTION COMPANY HAS NOT ALREADY APPLIED AGAINST THE PRODUCTION COMPANY'S OWN INCOME TAX, AND THE PRODUCTION COMPANY**

MAY NOT TRANSFER PORTIONS OF THE TAX CREDIT VALUED AT LESS THAN FIFTY THOUSAND DOLLARS.

(b) THE TRANSFEREE RECEIVING THE TAX CREDIT MAY USE ALL OR A PORTION OF THE TRANSFERRED INCOME TAX CREDIT AS AN OFFSET AGAINST THE TRANSFEREE'S INCOME TAX IMPOSED BY THIS ARTICLE 22. ANY UNUSED PORTION OF A TRANSFERRED INCOME TAX CREDIT MAY BE CARRIED FORWARD AND USED AS A TAX CREDIT AGAINST THE TRANSFEREE'S SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR AN INTERVAL NOT TO EXCEED THREE ADDITIONAL INCOME TAX YEARS FROM THE DATE OF THE TRANSFEREE'S ACQUISITION AND SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEAR AND THEN TO SUBSEQUENT INCOME TAX YEARS. AFTER THIS PERIOD, A TRANSFERRED TAX CREDIT OR PORTION OF A TRANSFERRED TAX CREDIT THAT REMAINS UNUSED UNDER THIS SUBSECTION (9) EXPIRES, MAY NOT BE CLAIMED, AND IS NOT REFUNDABLE. A TRANSFEREE SHALL NOT TRANSFER A CREDIT TRANSFERRED PURSUANT TO THIS SUBSECTION (9).

(c) THE OFFICE OF ECONOMIC DEVELOPMENT SHALL ESTABLISH NOTICE AND VERIFICATION REQUIREMENTS FOR ALL TRANSFERRED TAX CREDITS.

(d) A PRODUCTION COMPANY AND TRANSFEREE SHALL JOINTLY FILE A COPY OF THE WRITTEN TRANSFER AGREEMENT WITH THE OFFICE OF ECONOMIC DEVELOPMENT WITHIN THIRTY DAYS AFTER THE TRANSFER. THE FILING OF THE WRITTEN TRANSFER AGREEMENT WITH THE OFFICE OF ECONOMIC DEVELOPMENT PERFECTS THE TRANSFER, SUBJECT TO APPROVAL OF THE TRANSFER BY THE OFFICE OF ECONOMIC DEVELOPMENT.

(e) THE OFFICE OF ECONOMIC DEVELOPMENT SHALL DEVELOP A SYSTEM TO TRACK THE ISSUANCE AND TRANSFER OF TAX CREDITS AND TO CERTIFY THE OWNERSHIP OF THE TAX CREDITS ISSUED UNDER THIS SECTION. A CERTIFICATION BY THE OFFICE OF ECONOMIC DEVELOPMENT OF THE OWNERSHIP AND THE AMOUNT OF A TAX CREDIT MAY BE RELIED ON BY THE DEPARTMENT AND THE TRANSFEREE AS BEING ACCURATE TO THE EXTENT THE DATA SUPPLIED BY THE PRODUCTION COMPANY AND TRANSFEREE INVOLVED IN THE TRANSFER IS ACCURATE. NEITHER THE OFFICE NOR THE OFFICE OF ECONOMIC DEVELOPMENT SHALL ADJUST THE AMOUNT OF TAX CREDITS AS TO THE TRANSFEREE. THE OFFICE, THE OFFICE OF ECONOMIC DEVELOPMENT, THE DEPARTMENT, AND ANY OTHER STATE AGENCY RETAIN ANY REMEDIES THEY MAY HAVE AGAINST BOTH THE PRODUCTION COMPANY AND THE TRANSFEREE AND ANY OTHER TAXPAYER THAT MISREPRESENTS THE VALUE OF THE TRANSFERABLE TAX CREDIT IN A TRANSFER. THE OFFICE OF ECONOMIC DEVELOPMENT SHALL ESTABLISH POLICIES TO PERMIT VERIFICATION OF THE OWNERSHIP AND AMOUNT OF THE TAX CREDITS AND SHALL POST THOSE POLICIES ON THE WEBSITES OF THE OFFICE OF FILM, TELEVISION, AND MEDIA AND THE OFFICE OF ECONOMIC DEVELOPMENT; EXCEPT THAT THE POLICIES MUST NOT UNDULY RESTRICT OR HINDER THE TRANSFER OF THE TAX CREDITS AS ALLOWED IN THIS SECTION.

- (f) THE OFFICE OF ECONOMIC DEVELOPMENT SHALL PROVIDE AN ELECTRONIC REPORT TO THE DEPARTMENT SPECIFYING THE ISSUANCE, TRANSFER, AND OWNERSHIP OF TAX CREDITS AS ALLOWED IN THIS SECTION. THE OFFICE OF ECONOMIC DEVELOPMENT SHALL PROVIDE THE ELECTRONIC REPORT ON A SCHEDULE TO BE DETERMINED BY THE DEPARTMENT AND THE OFFICE OF ECONOMIC DEVELOPMENT.
- (10) IF A PRODUCTION COMPANY OR A TRANSFEREE IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR SIMILAR PASS-THROUGH ENTITY, THE PRODUCTION COMPANY OR TRANSFEREE MAY ALLOCATE THE CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY SUCH PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE TAXPAYER SHALL CERTIFY TO THE OFFICE THE AMOUNT OF THE CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER, AND THE OFFICE SHALL ISSUE TAX CREDIT CERTIFICATES IN THE APPROPRIATE AMOUNTS TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH AMOUNT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.
- (11) THE OFFICE SHALL INCLUDE INFORMATION REGARDING TRANSFERS AUTHORIZED UNDER THIS SECTION, INCLUDING THE AMOUNTS TRANSFERRED, THE NAMES OF THE PRODUCTION COMPANIES TRANSFERRING THE INCOME TAX CREDITS, AND THE NAMES OF THE TRANSFEREES USING THE TRANSFERRED INCOME TAX CREDITS DURING THE MOST RECENT FISCAL YEAR FOR WHICH SUCH INFORMATION IS AVAILABLE IN THE ANNUAL REPORT REQUIRED BY SECTION 24-48.5-116(3).
- (12) NOTWITHSTANDING THE PROVISIONS OF SECTION 39-21-113:
- (a) THE DEPARTMENT OF REVENUE MAY PROVIDE SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT PURSUANT TO THIS SECTION TO TAXPAYERS, INCLUDING OWNERS AND TRANSFEREES, WITH CASES INVOLVING COMMON OR RELATED ISSUES OF FACT OR LAW. WITH THE EXCEPTION OF TAXPAYER CONTACT INFORMATION, ANY INFORMATION PROVIDED PURSUANT TO THIS SUBSECTION (12) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE SUBJECT TO THE LIMITATIONS SPECIFIED IN SECTION 39-21-113 (4) AND THE PENALTIES SPECIFIED IN SECTION 39-21-113 (6).
- (b) THE DEPARTMENT OF REVENUE MAY REQUIRE THAT SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT PURSUANT TO THIS SECTION AND ANY DOCUMENTATION IN SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE OFFICE OF FILM, TELEVISION, AND MEDIA AND THE OFFICE OF ECONOMIC DEVELOPMENT AS THE DEPARTMENT DETERMINES IS NECESSARY IN THE PERFORMANCE OF THE DEPARTMENT'S

FUNCTIONS RELATING TO THE CREDIT. IN RESOLVING DISPUTES REGARDING THE CREDIT, THE DEPARTMENT MAY DISCLOSE SUCH DETAILED TAXPAYER INFORMATION AND CONSULT WITH THE OFFICE OF FILM, TELEVISION, AND MEDIA AND THE OFFICE OF ECONOMIC DEVELOPMENT. NOTWITHSTANDING PART 2 OF ARTICLE 72 OF TITLE 24, IN ORDER TO PROTECT THE CONFIDENTIAL FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR DOCUMENTATION REQUIRED IN ACCORDANCE WITH THIS SUBSECTION (12).

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