

## **Film Incentive Task Force Report**

As created by HB 22-1408

Authored by the Colorado Office of Film, Television and Media

*December 2022*

### **Film Incentive Task Force**

Passed in May of 2022, House Bill 22-1408 created the Film Incentive Task Force. The task force consists of two members of the State House of Representatives, two members of the State Senate, one representative of the Motion Picture Association of America, one member from a statewide labor organization involved in representing the film production workforce, one member from a statewide labor organization involved in representing on-camera performers, one representative from a business school in a Colorado institution of higher education, and the Director of the Office of Film, Television and Media. These members were tasked with determining how to make Colorado's film incentive more effective and competitive.

### **History of the Colorado Film Incentive**

In May 2012, the Colorado legislature passed a law providing an incentive that allows for a performance-based rebate of up to 20% of qualified Colorado expenditures for films, television series, commercials, and video games produced in Colorado. Colorado Revised Statute 24-48.5-116 created the current performance-based incentive for film production.

Since the incentive's inception, the increase in inquiries and applications has been obvious: as of October 2022, approximately \$30M in incentives has been paid or conditionally approved to productions. The Colorado Office of Film, Television & Media (COFTM) reports \$182.8M in actual and predicted production spend and 6,023 cast and crew hires from the start of the program in 2013 through calendar year 2022. Over the last decade, Colorado's content creation industry has benefited from high profile productions from major film studios and reputable independent production companies such as Universal Studios and Netflix. A few notable films include the Netflix original films *Our Souls at Night* (Robert Redford, Jane Fonda) and *Amateur* (Josh Charles, Michael Rainey Jr.); *The Hateful Eight* (Quentin Tarantino); *Furious 7* (Vin Diesel, Paul Walker); *Cop Car* (Kevin Bacon, Cameron Manheim); *Dear Eleanor* (Jessica Alba, Luke Wilson); and *Heaven Sent*, a family friendly Christmas film directed by Michael Landon Jr. In television, Colorado received notable screen time with the incentivized Bravo TV series, *Top Chef*, which showcased the state's agricultural landscape in addition to scenery in Denver, Boulder, Aspen, and Telluride. Since 2018, we've seen a continued trend in unscripted television productions, with COFTM incentivizing sixteen projects produced locally to air on Food Network, PBS, Facebook Live, HGTV and Velocity Channel.

Funding for the film incentive program is allocated annually by the State Legislature for a July 1 - June 30 fiscal year. From the inception of the 20% performance-based rebate through FY23, the State Legislature has allocated the Colorado Office of Film Television & Media approximately \$20M in General Fund funding for incentives, though the amount of funding can vary year by year. Additional funding of approximately \$10M has been achieved since FY19 through a combination of Strategic Fund allocation, HB 21-1285, and HB 22-1408. In FY22,

COFTM was legislatively allocated \$750,000, a return to FY20’s funding level, which is significantly lower than competing western states (for example, the next lowest allocation can be found in Utah and Montana, whose tax credit programs both have an annual cap of \$12M. These programs are detailed beginning on p.10). Though COFTM entered into the FY22 fiscal year with approximately \$5M in available incentive funding, as of December 2022, five months into the fiscal year, COFTM has less than \$400k remaining.

The COFTM allocation has continued to shrink since the office was allocated \$5M in the third year of the program. As a result of lower funding allocations, COFTM made an effort to support Coloradans who live and work within the state by only awarding incentive dollars to in-state applicants between FY18-FY20. Fewer funds have resulted in fewer incentivized productions and a negative impact on both the state’s workforce and economy.

Thanks to the additional funds granted by the Strategic Fund and the FY21 and FY22 House bills, COFTM has had an unprecedented amount of incentive funding available in recent years. This has led to a record number of projects being supported through the film incentive program and the attraction of various larger scale and higher profile projects including George Nolfi’s *Elevation*, an \$18M feature film, and two HGTV reality projects: *Hometown Takeover* and *Rock the Block*. The effects of increased incentive funding are clear; however, the effectiveness of the program is dependent on maintaining a consistent level of funding that can be relied upon by Colorado crew members and both in- and out-of-state producers. If the incentive continues to fluctuate year after year, productions will continue picking other states over Colorado for their projects, the local industry will not be able to support their own local talent, and crew will continue to leave the state indefinitely, gutting Colorado of its skilled workforce and diminishing opportunities for future productions to film in the state.

The table below shows the amount of incentive funding COFTM received by fiscal year since FY15 and its impact on the number of incentivized projects, production spending in Colorado, and the number of cast and crew hires. Incentive awards are allocated but not paid out to production companies until the project has wrapped Colorado expenses, and spending has been audited by a Certified Public Accountant and COFTM’s internal Business Analyst (more on procedure can be found on p. 9), making the incentive awards and impact numbers for recent fiscal years in Table 1.1 estimated numbers, rather than fully audited.

**Table 1.1** COFTM Incentivized Projects FY2015 – FY2023

Year	Incentive Funding	Number of Projects Incentivized	Total Colorado Spend	Total Colorado Spend with Multiplier**	Cast & Crew Hires
FY 2015	\$ 5,000,000	16	\$ 33,570,021	\$ 60,367,291	717
FY 2016	\$ 3,000,000	15	\$ 17,052,944	\$ 30,665,457	838

FY 2017	\$ 3,000,000	10	\$ 28,492,439	\$ 51,236,528	760
FY 2018	\$ 750,000	8	\$ 5,617,228	\$ 10,101,181	280
FY 2019	\$ 750,000	5	\$ 3,764,434	\$ 6,769,393	176
FY 2020	\$ 2,000,000 <sup>1</sup>	12	\$ 7,078,867*	\$ 12,729,574	189
FY 2021	\$ 2,250,000 <sup>2</sup>	12	\$ 25,558,879*	\$ 45,961,254	590
FY 2022	\$ 6,750,000 <sup>3</sup>	22	\$ 10,828,335*	\$ 19,472,053	379
FY 2023 <sup>4</sup>	\$2,750,000 <sup>5</sup>	7	\$ 31,320,618*	\$ 56,322,301	583

\*Number based on CPA final reports and estimated spend based on application materials for projects still in production.

\*\* Multiplier calculated for COFTM by University of Colorado Leeds School of Business

<sup>1</sup>This number reflects FY2020 General Fund allocation of \$750k AND the additional \$1.25M from OEDIT's Strategic Fund approved by the EDC in Oct. 2019.

<sup>2</sup>This number reflects FY2021 General Fund allocation of \$250k AND the additional \$2M from OEDIT's Strategic Fund approved by the EDC in Dec. 2020.

<sup>3</sup>This number reflects the FY2022 General Fund allocation of \$750k AND the \$6M infusion from the Cash Fund as a result of HB 21-1285.

<sup>4</sup>FY2023 numbers only reflect July-Oct. 2022 and are all anticipated numbers, as the projects are still in production.

<sup>5</sup>This number reflects the FY2023 General Fund allocation of \$750k AND the \$2M addition from the Cash Fund as a result of HB 22-1408.

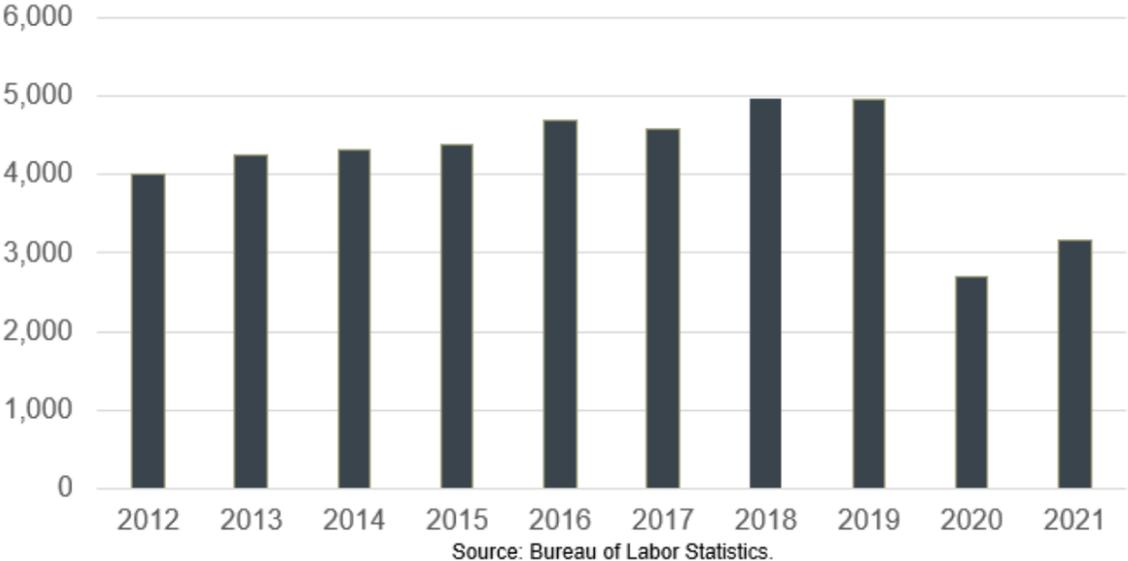
### The Colorado Film Industry and Infrastructure

Colorado's film industry is expansive and includes people working in a variety of roles including actors, stunt performers, director, producer, cinematographer, makeup artist, caterer, carpenter, hairdresser, electrician, driver, and many more.

Workers in the film industry typically fall into two categories: employees at companies or firms and workers who are self-employed. According to information compiled by the Business Research Division, Leeds School of Business, and University of Colorado Boulder, Colorado recorded 3,156 employees in the Motion Picture and Video Industries (NAICS 5121) in 2021. Examining the U.S. Census Bureau nonemployer statistics, it is estimated about 1,430

self-employed individuals were working in this industry in 2021, estimating \$44.2 million in receipts (earnings). There are more workers still who occasionally work in the film industry but that work is not their main source of income.

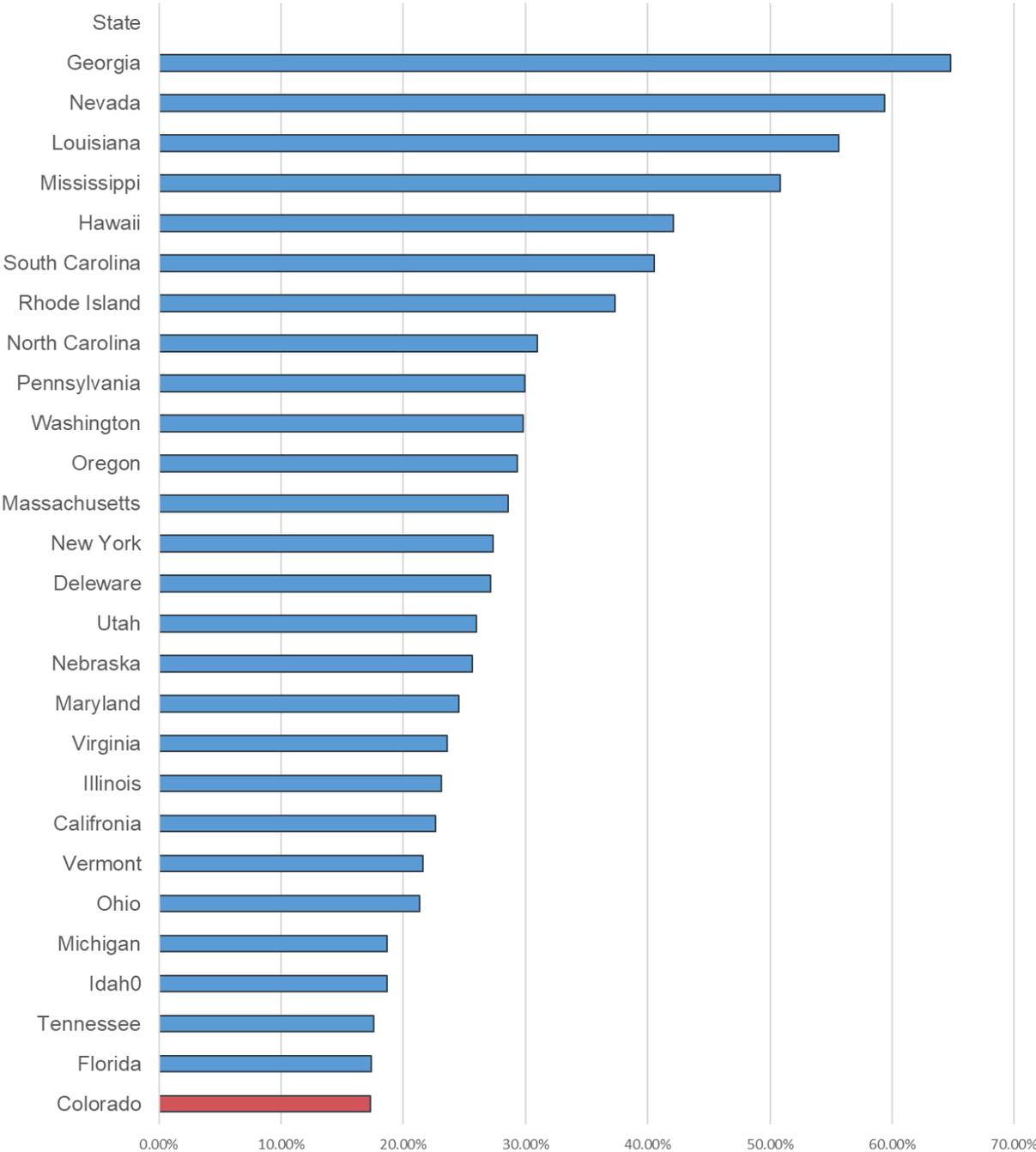
**FIGURE 1: COLORADO’S MOTION PICTURE AND VIDEO INDUSTRY EMPLOYMENT**



*Data compiled by the Leeds School of Business, Business Research Division*

Due to the COVID-19 pandemic, national as well as Colorado-specific employment numbers in the film industry decreased dramatically in 2020, as seen in Figure 1, above. Colorado, however, had already been underperforming the nation in industry employment growth in 2019, and that trend continued past the height of the pandemic and into 2021. From 2019 to 2021, the three-year compound annual growth rate was -36.4% in Colorado versus -16.4% nationally. Likely due to the overall instability of the film industry in Colorado, the pandemic took a heavier toll on the industry in the state than in the rest of the country, and it has been slower to recover.

**FIGURE 2: Film Industry Employment Growth by State From 2020-2021**



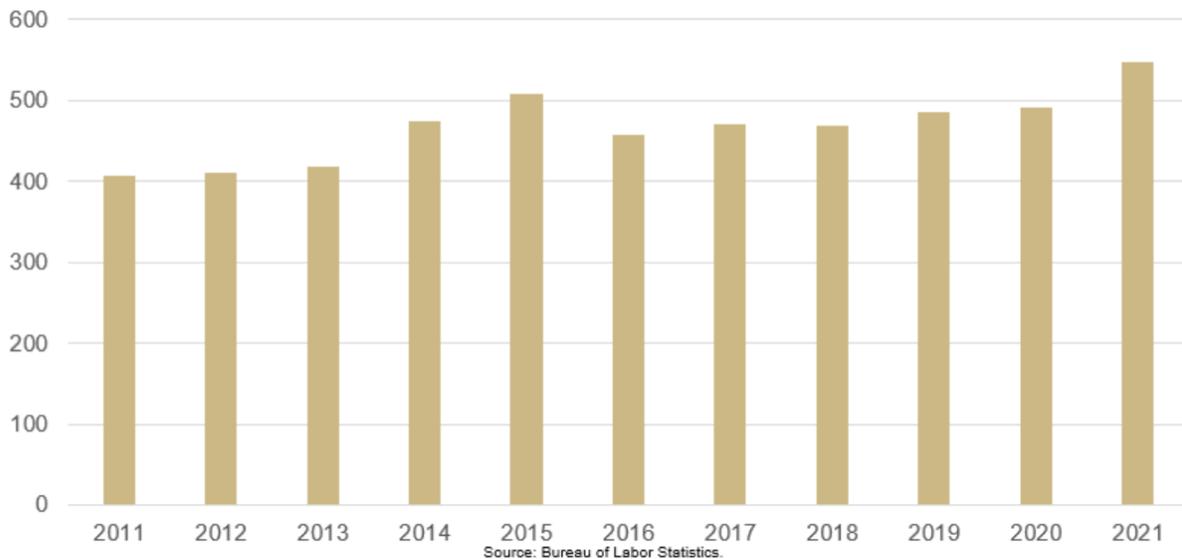
*Data compiled by the Leeds School of Business, Business Research Division*

While the employment growth rate in Colorado was lower than the U.S. average from 2020-2021 (see Figure 2), growth rate for the number of motion picture and video industry firms in Colorado since 2020 has been higher than the U.S. average, increasing in 2021 at an 11.4%

growth rate compared to the year prior (4.7% nationally) (see Figures 3 and 4). This is the highest growth rate recorded since 2014, and correlates to the increase in incentive funding availability since 2021.

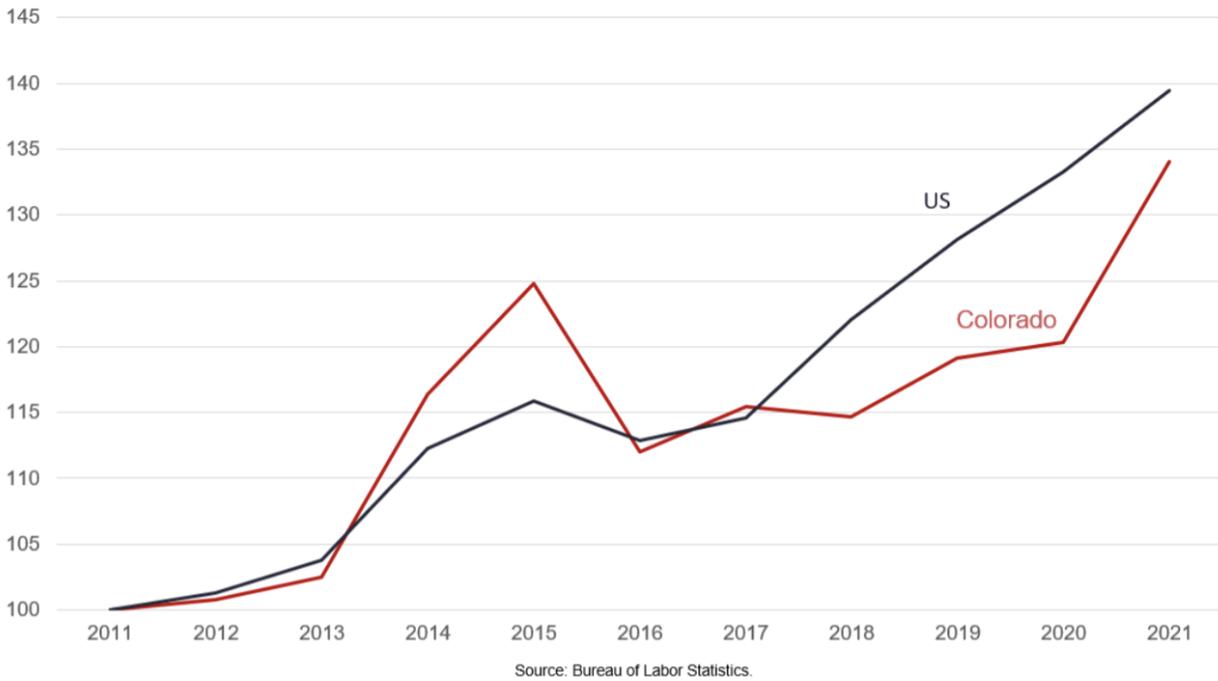
Colorado also reports adding 136 new firms since 2012. These firms are Colorado companies working in the state, employing Coloradans, and creating content that is consumed not just in-state but all over the world. Given the overall instability of the film industry in the state, this increase may be explained by several factors. Because of the limited opportunities to work on more traditional, steady film and television sets, many industry members in Colorado have created their own production companies (oftentimes employing just 1-5 workers), work as freelancers, and are small business owners, which likely accounts for the majority of these new firms. LLCs are also often created for each new film project that a production company or individual undertakes, and is dissolved once the project has wrapped. Lastly, this increase in firms also correlates to Colorado’s overall population growth rate during the 2010-2020 decade, which according to the U.S. Census Bureau was 14%, nearly twice the national growth rate of 7%.

**FIGURE 3: NUMBER OF MOTION PICTURE AND VIDEO INDUSTRY FIRMS IN COLORADO (2011-2021)**



*Data compiled by the Leeds School of Business, Business Research Division*

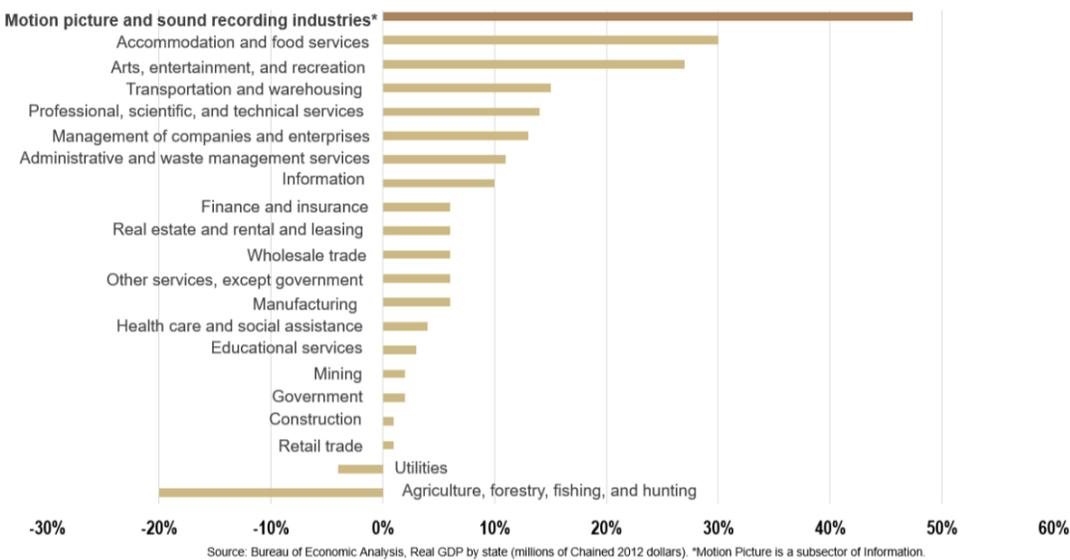
**FIGURE 4: INDEXED GROWTH OF MOTION PICTURE AND VIDEO INDUSTRY FIRMS IN BOTH THE US AND COLORADO (2011-2021)**



Data compiled by the Leeds School of Business, Business Research Division

As illustrated by Figure 5, Motion Picture and Sound Recording Industries outperformed the state in overall GDP growth as well as every industry in the state in 2021. While film GDP accounted for only 0.16% of state GDP in 2013, film GDP grew by 47% (compared to 5.8% for the overall state GDP in 2021), regaining and surpassing the 20% loss recorded in 2020, which again corresponds to the increase in film incentive funding availability beginning in 2021.

**FIGURE 5: COLORADO REAL GDP BY INDUSTRY, PERCENTAGE CHANGE, 2021**



Despite the small size of Colorado's film industry, the industry should not be overlooked as a growth opportunity. It should be noted that the complete picture of the employment impact of the industry is somewhat elusive due to the categorization of impacted employees in the community. Film productions in the state tend to utilize a greater number of vendors and contractors than other industries in order to build and wire sets, serve lunches, provide transportation, and more. They procure hotel rooms and source other goods and services directly from Colorado suppliers. The economic amplifier figures take into account this widespread impact, as these workers are recorded not as film employees but as employees of their respective industries (food services, accommodations, construction, etc.). In addition to the workers from other industries that the film industry directly utilizes, spending by the industry has backward (upstream) impacts on other industries as well, particularly in hospitality and tourism.

In the first five years of Colorado's performance-based rebate, steady incentive funding led to a substantial increase in film and television crew. Anecdotally, producers who worked in the state inquired about returning with new projects. A new, younger crew population, many of whom graduated from Colorado institutions of higher education, supplemented this crew base. Various institutions across the state, including the Colorado Film School and CU Denver's College of Arts and Media, have reported an increase year after year in film and video students, and institutions like the University of Denver, University of Northern Colorado, Red Rocks Community College, Colorado Mesa University, and Front Range Community College are exploring new film and entertainment industry programs and expansions. At the same time, with fewer incentive dollars and a decrease in larger, out-of-state productions, Colorado's film and television workforce has begun to look for opportunities in other film-friendly states such as New Mexico, Utah, and Georgia. Recent increases to film incentives in Utah and Montana have also attracted more projects looking to film in the region.

Because feature film and large scale television production are primarily incentive-driven, most of the people who continue to live and work full time in the industry in Colorado work in commercial video production. Production of commercials has become a large part of the state's film market due to Colorado's beautiful natural landscapes and reputable commercial crew base. Since FY19, Colorado has remained a key location for the commercial industry, serving as the backdrop for commercials for Skullcandy (Denver), Harley-Davidson (Leadville and Pueblo), Subaru (Telluride), Colorado Great Outdoors (Durango) and the Colorado Lottery (Jefferson County), among others. Additionally, Colorado was a music video location for musicians Enrique Iglesias ("Después que te perdí" filmed in Park County), Dan + Shay ("Tequila" filmed in Frisco), and Brooks Forsyth ("Cast My Dreams to the Wind" filmed in Victor).

Commercial production tends to pay better per project, but the employment time per project is much shorter than for a film or television show. Without a consistent incentive program - which would bring larger productions, infrastructure, and sustained employment - Colorado's crew base will continue to shrink. Many Colorado film industry members have moved to other states with larger incentive programs and more job opportunities like New Mexico and Georgia, and many who continue to reside in Colorado travel out of state for months out of the year for work, missing time with their friends and family and taking away local spending and economic



development opportunities for Colorado communities. An informal survey taken by COFTM in 2019, for example, showed that approximately half of the Colorado-based crew members who worked on *Our Souls At Night* in 2017 had moved out of state two years later. With a smaller and less reliable crew base, it is likely that Colorado will begin to lose even the typically unincorporated commercial production business.

With fewer productions and a shrinking crew base, Colorado's infrastructure is also declining. Rental houses, which supply commercial and film productions with camera, lights, electrical equipment and more, and soundstages, which provide adaptable filming locations, are key to any community's film industry and allow access to gear and space for both in- and out-of-state production companies. Rental houses are attractive to out-of-state production companies because they do not incur the added expense of renting gear that must then be shipped from and returned to another state. Soundstages provide controlled, professional filming spaces that can be manipulated and made to look like any environment a production wants to create or could not find locally. Unfortunately, due to reduced and inconsistent General Fund allocation for the incentive program, Colorado rental houses are seeing a decline in business and many rental houses and soundstages have downsized or closed. Lighting Services Inc. is just one example, which downsized from 60,000 square feet of studio space and 12 employees to 20,000 square feet and three employees in recent years.<sup>1</sup>

### **Current Film Incentive Process**

Funding for the Colorado Film Incentive is allocated through the Colorado State Legislature. COFTM receives funding for the film incentive program at the beginning of the fiscal year, which starts on July 1, and funding gets allocated to projects on a first-come-first-serve basis. To receive a film incentive, projects must meet statutory requirements during the application process, including meeting minimum spends and hiring at least 50% Colorado resident cast and crew members. After completing an internal review process by COFTM, each project is presented to the Economic Development Commission (EDC). The EDC was created by the Colorado General Assembly to promote economic development in Colorado. It consists of 11 Colorado business leaders, with three members appointed by the Senate, three appointed by the House, and five appointed by the Governor. This group must vote to approve each project before a purchase order or contract is initiated and principal photography may commence. After completion of the film, television show, or video game, a Colorado licensed Certified Public Accountant (who has completed training with COFTM) must review and sign-off on the project's qualified expenditures. After an additional audit by the COFTM Analyst, a check for the appropriate incentive amount (not to exceed the incentive amount initially approved by the EDC) will be issued to the production company.

### **Impact of the Colorado Film Incentive**

Using a Leeds School of Business supplied multiplier effect, it is estimated that approved productions have (and will) generate nearly \$330M in economic impact to 55 counties in Colorado.

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<sup>1</sup> [Sealover, Ed. "The End?" Denver Business Journal, February 12, 2020](#)

**Table 1.2 Colorado Film Incentive Program 2013-2022**

Colorado Film Incentive Program 2013-2022	
Number of Projects Completed and In-production	129
Incentives Paid and Allocated	\$30.3M
Total Cast and Crew Positions Created	6,023
Economic Impact	
Total CO Production Spend	\$182.7M <sup>1</sup>
Estimated Tax Revenue	\$20.1M
Net Cost to State	\$10.2M
Estimated ROI	18:1 <sup>2</sup>
<p><sup>1</sup> Production Companies' anticipated qualified in-state expenditures (for incentivized productions currently in production) or production companies' audited in-state expenditures, which are submitted to COFTM as a requirement prior to issuance of the performance-based rebate. This documentation has been reviewed by a qualified Colorado CPA and COFTM's Program Analyst.</p> <p><sup>2</sup> Estimated Tax Revenue reflects taxes collected throughout the state and are calculated as a result of a study conducted by the University of Colorado Leeds School of Business.</p> <p><sup>3</sup> The estimated ROI reflects all incentivized projects. Please note that certain projects return a higher ROI due to COFTM's ability to negotiate a lower incentive percentage. For example, COFTM was able to negotiate a 9% incentive in FY 2016-17 for the incentivized project, <i>Our Souls At Night</i>, which featured Robert Redford and Jane Fonda, and premiered on Netflix. The film spent \$17.9M in Colorado expenditures.</p>	

**Competing States Film Incentives and Types of Incentives**

Thirty-three states currently have film incentive programs, along with the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The following table summarizes the current film incentive offerings from competing states in the Western United States.

**Table 1.3 Competing Western States Offering Film Incentives**

Competing Western States Offering Film Incentives (March 2022)			
State	Incentive	Allocated Fiscal Year Funds 2023	Type of Incentive
California <sup>1</sup>	20% - 25%, + 5-10% for various uplifts	\$330,000,000	Non-Transferable Tax Credit (Non-Indie/TV)

			Transferable Tax Credit (Indie)
New Mexico <sup>1</sup>	25% + 5-15% for various uplifts	\$110,000,000	Refundable Tax Credit
Montana <sup>1</sup>	15%–35%	\$12,000,000 <sup>3</sup>	Transferable Tax Credit
Utah <sup>1</sup>	20% + 5% for uplifts	\$12,000,000	Refundable Tax Credit
	20%	\$1,500,000	Rebate
Oklahoma <sup>1</sup>	20% - 38%	\$30,000,000	Rebate
Arizona <sup>2</sup>	15-20%	\$75,000,000	Refundable Tax Credit
<p><sup>1</sup> <a href="#">Cast and Crew U.S. Production Incentives at-a-Glance</a> - Cast and Crew is a reputable and widely used film industry payroll company. Every year they put out a guide to film incentives in the US and Canada that is used by many producers.</p> <p><sup>2</sup> <a href="#">Arizona House Bill 2156</a></p> <p><sup>3</sup> Note: Montana’s incentive program runs on the Jan.-Dec. calendar year</p>			

**Utah**

Established by the Utah State Legislature in 2011, the Motion Picture Incentive Program has had a deep and meaningful impact on production in Utah and the state’s film industry. According to the Utah Film Commission, over the last ten years, their 210 incentivized productions have spent \$463M locally, \$155M of which was spent in rural Utah, have filmed for over 28,400 days, have created over 34,600 jobs, and have brought in \$6B in film tourism revenue<sup>2</sup>. Notable productions that have filmed in Utah include 27 Disney Channel films (including the beloved High School Musical franchise), *The Real Housewives of Salt Lake City*, and *Yellowstone*, among many others<sup>3</sup>.

Utah offers two film incentive programs, the Motion Picture Incentive Program and the Community Film Incentive Program. The Motion Picture Incentive Program has two options: a cash rebate or a refundable, non-transferable tax credit on qualified local spending of 20%. Requirements and incentive percentages vary depending on the production’s anticipated local spend and both types of incentives are post performance incentives. Utah also provides an additional 5% incentive for productions with budgets over \$1M that hire 75% local cast and crew and that spend 75% of their production days in rural Utah. They define rural Utah as being any county except Davis, Salt Lake, Utah, Washington, and Weber<sup>4</sup>.

<sup>2</sup> [Utah Film Commission - About](#)  
<sup>3</sup> [Utah Film Commission - Filmed In Utah](#)  
<sup>4</sup> [Utah Film Commission - Utah Film Incentive Programs](#)

The Community Film Incentive Program is available for projects originating in Utah with budgets between \$100,000 and \$500,000 and is intended to support local filmmakers. This incentive is a 20% post production cash rebate<sup>4</sup>.

The two Utah film incentive programs are summarized in the table below.

**FIGURE 7: UTAH FILM INCENTIVE PROGRAM SUMMARY**

PROGRAM	RATE	SPEND	INCENTIVE	QUALIFICATIONS
MPIP Over \$1M	25%	\$1M+	Tax Credit	-Over \$1M in qualified spend -75% cast and crew are Utah residents (excluding extras and five principal cast members) OR -75% of production days occur in rural Utah*
MPIP Over \$1M	20%	\$1M+	Tax Credit	Over \$1M in qualified spend
MPIP Under \$1M	20%	\$500,000 - \$1M	Cash Rebate or Tax Credit	-Over \$500K in qualified spend -75% cast and crew are Utah residents (excluding extras and five principal cast members)
CFIP	20%	\$100,000 - \$500,000	Cash Rebate	-Director, Writer, or Producer is a Utah resident -85% of cast and crew are Utah residents and are earning at least \$100 a day -At least 1 of the key department heads must be in the position for the first time

\*Rural Utah is considered to be any county outside of Salt Lake, Davis, Utah, Washington, and Weber counties.

*Table courtesy of the Utah Film Commission.*

Since its inception until 2022, the Utah Motion Picture Incentive Program was funded annually at \$6.79M. Beginning July 1, 2022, that annual funding was increased to \$12M, and the 5% increase for productions utilizing rural locations was added<sup>5</sup>. This was in response to a growing interest in filming in rural areas and a need for increased incentive funding and recognition of the importance of incentives industry-wide. In 2021, the Motion Picture Association of Utah released a study that found, among other things, that “86% of all films produced in Utah reported they would not have done so without the incentive, and 100% of out-of-state producers reported they would not have come to Utah without it.”<sup>5</sup>

### Montana

Montana has both a tax credit and a grant program as part of their film office offerings. Created by the Montana Economic Development Industry Advancement (MEDIA) Act on July 1, 2019, Montana’s film incentive offers a 20% transferable tax credit on production expenditures in the state. Production companies can also receive additional incentive amounts up to 35% of their base investment in the tax year. These potential additions are listed below. The MEDIA tax

<sup>5</sup> [Utah Film Commission, “What’s Next For Utah’s Film Incentive Program?” April 18, 2022](#)

credit is administered jointly by the Montana Film Office and the Montana Department of Revenue, and the program is set to extend through 2029.

- 25% of compensation for MT resident crew
- 15% of compensation for non-MT resident crew
- 20% of above-the-line compensation (actor, director, producer, writer)
- 30% of compensation paid to a student enrolled in a MT college/university who works on the production for college credit
- 10% of payments to MT colleges/universities for stage, equipment, rentals, or location fees for filming on campus
- 10% of all in-studio facility/equipment expenditures that rents a studio for 20 days or more
- 5% of expenditures in an underserved county
- 5% for using “Filmed in Montana” screen credit logo
- 25% of post-production wages

*Screenshot courtesy of the Montana Film Office*

Currently, the tax credit program has a \$12M annual cap. This cap was raised from \$10M during the 2021 legislative session. Based on the Economic Impact of Montana Film Production report, which covered the state’s film industry between January 2019 and June 2020, 117 productions have filmed in Montana. The economic impact of these productions that filmed in Montana totalled \$47.6M, and the estimated tax credits they received totalled \$1.8M.<sup>6</sup>

The creation of the MEDIA Act Tax Credit Program has not only supported increased production in the state, but it has also spurred the building of industry infrastructure. Completed in June of 2020, the Yellowstone Film Ranch is an example of the impacts film incentives can have on infrastructure. The ranch now includes 26 structures, lodging, office space, storage, catering, sets, and more, and can be used by various productions to fit their needs.<sup>7</sup>

In addition to the tax credit film incentive, Montana offers the Big Sky Film Grant. The grant was established in 2013, and its purpose is to support local industry jobs. Eligible productions include feature films, short films, documentaries, television series, and limited series. Grant amounts vary depending on the type of production and their local spending.<sup>8</sup> In addition to incentives and grants, Montana attracts productions by offering no sales tax, certain tax exemptions on accommodations, licensing exemptions and more.<sup>9</sup>

### New Mexico

New Mexico has by far the largest film incentive program in the states surrounding Colorado. New Mexico has had a film incentive program in one shape or another since 2002. Their incentive program has grown significantly since its inception, with local production spending reaching record levels in the last fiscal year. According to New Mexico Governor Michelle Lujan Grisham, the film industry directly spent \$855.4M locally in fiscal year 2022, a 36% increase

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<sup>6</sup> [Montana Film Office, “The Economic Impact of Montana Film Production,” June 25, 2020](#), p.3

<sup>7</sup> [Montana Film Office, “The Economic Impact of Montana Film Production,” June 25, 2020](#), p.25

<sup>8</sup> [Montana Film Office, Big Sky Grant](#)

<sup>9</sup> [Montana Film Office, Bonus Incentives](#)

from the previous fiscal year. One hundred and nine total productions (55 films and 54 television series) were produced during the year, creating 668,708 total worker days. According to the New Mexico Film Office, "only 8% of total production would have existed in New Mexico without the film incentive."<sup>10</sup>

New Mexico's film incentive program offers a 25% base tax credit that can reach up to 35% with various uplifts. Their uplifts include an additional 5% for television series or pilots that meet certain criteria, an additional 5% for productions that use qualified production facilities and meet certain criteria, and an additional 5% for productions that film in rural areas. Rural areas are defined as being at least 60 miles outside of Bernalillo and Santa Fe counties.<sup>11</sup> The total funding cap for the incentive program is \$110M per fiscal year.

New Mexico also offers various other incentives: a Nonresident Below-the-Line-Crew Credit of 15% or higher at the discretion of the New Mexico Film Office; the Film Crew Advancement Program that supports on-the-job training for New Mexico residents; and Operation Soundstage, which provides film industry training opportunities for veterans.

Over the last few years, New Mexico has grown its film industry, through increased incentive funding, training programs, and additional legislation that supports film industry investment. In 2019, Senate Bill 2 was enacted, which "incentivized production companies to collaborate with the state through long-term partnership agreements, capital investment, workforce development, and job training."<sup>12</sup> This new legislation also allowed production companies to be exempt from the state's annual incentive cap, as long as they agree to produce projects and invest in a local production facility for 10 years.<sup>13</sup> As a result of this legislation, Netflix continued to expand their presence in the state, doubling their commitment and announcing plans to spend an additional \$1B locally over 10 years. NBCUniversal opened a production facility in Albuquerque and committed to spending \$500M in direct production spend and the creation of 330 FTEs over 10 years.<sup>12</sup> In March of 2022, Governor Lujan Grisham allocated \$40M to create the Next Generation Media Academy. The state-of-the-art Academy, founded and funded in partnership with local institutions of higher education and private productions companies including Netflix and NBCUniversal, will train local New Mexicans at all levels and give them the necessary skills to contribute to the local film industry.<sup>14</sup>

### Film Incentives in Other States

Film incentives currently exist in 33 states in the United States, and over forty countries offer their own as well. States without active film incentive programs regularly miss out on

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<sup>10</sup> [Robb, David. "New Mexico Sees Record \\$855.4 Million in Direct Production Spending." Deadline. July 14, 2022](#)

<sup>11</sup> [Film New Mexico - Incentives](#)

<sup>12</sup> [Office of the Governor Michelle Lujan Grisham, "New Mexico film production spending hits new record high as a result of Gov. Lujan Grisham's investments." July 14, 2022](#)

<sup>13</sup> [Media Services Inc., "The Definitive Guide To New Mexico's Film Tax Incentive," originally published July 26, 2019](#)

<sup>14</sup> [New Mexico Film Office Press Release, 3/10/22, NMFO: Governor Allocates \\$40 Million To Establish Next Generation Media Academy in New Mexico](#)

productions, even when productions are set in those states, as the decision about where to film is a financial one. Those states lose exposure on a wider scale, film tourism opportunities, job opportunities for their residents, and economic opportunities for their local businesses. For these reasons, many states, in particular ones surrounding Colorado, are creating new or reviving film incentive programs that have been sunset.

Arizona recently passed a law creating the Arizona Motion Picture Production Program. Beginning in 2023, productions will be able to apply for a 15-20% tax credit. The tax credit will be in place until 2043 and will be capped annually at \$75M, increasing to \$125M over three years.<sup>15</sup>

Wyoming is also considering reviving their film incentive program, which ended in 2018. The proposed Wyoming Film Production Incentives program would provide a rebate of up to 30% on local qualified expenditures in the state. The program would offer a 15% base rebate, with additional rebate amounts available for productions who hire at least 60% local cast and crew, productions who hire at least 10% local veterans, or productions that could prove that their project would have at least 7.5 millions views. The program would be capped at \$3M annually to begin.<sup>16</sup>

**Types of Film Incentives**

As can be seen from the Competing Western States Offering Film Incentives table and the state incentive descriptions above, there are various structures for film incentive programs. The most common are summarized in the table below.

**Table 1.4** Types of Film Incentives

Types of Film Incentives	
Type	Description
Rebate	Cash paid back to a production company that is a percentage of the money the production company spent locally.
Transferable Tax Credit	The most common type of tax credit. Credits productions can use against taxes they owe to the state they are filming in. If the production company is not local to that state (i.e. will not be paying taxes to that state), the production can sell or transfer the tax credits to in-state taxpayers or companies. Transferred or sold credits are typically done at a discount. <sup>1</sup>

<sup>15</sup> [The Wrap. "Arizona's \\$125 Million Movie and Television Tax Credit Becomes Law." July 6, 2022](#)

<sup>16</sup> [Wolfson, Leo. "Legislative Committee to Study Film Incentives In Wyoming After Missing Out On 'Yellowstone' and 'Joe Pickett.'" Cowboy State Daily. May 13, 2022](#)

Non-transferable Tax Credit	Credits productions can use against taxes they owe to the state they are filming in. Non-transferable tax credits must be used by the production company (or a parent company) itself, though they can be used in subsequent years. <sup>2</sup>
<p><sup>1</sup><a href="#">Stephens, Caleb. "Understanding Tax Incentives In the Filmmaking Industry." Premium Beat, September 5, 2018</a></p> <p><sup>2</sup><a href="#">Savare, Matthew; Hansen, Michael; and Flippen, Mark. "Beyond the Basics." FILMMAKER, Fall 2009</a></p>	

Colorado currently has a rebate program, wherein productions that meet the program requirements can receive a rebate of all their qualified local expenses. Typically the rebate does not exceed 20%; however with the passage of HB 22-1408, the Executive Director of the Office of Economic Development can authorize a rebate percentage higher than 20%. The cap for total incentive funding in Colorado varies year over year, based on the allocation from the State Legislature.

Next Steps in Colorado

From August - December 2022, the Film Incentive Task Force hosted a series of four public meetings to hear testimony and comments from Colorado industry members regarding the state of the Colorado film industry and their recommendations on improving the incentive program. Actors, camera operators, craftspeople, educators, producers, union crew members, and other industry representatives voiced their concern over the lack of consistency in the annual legislative General Fund allocation, the resulting job losses that they have all experienced individually, and the need to travel out of state in order to sustain their livelihoods. When asked by Task Force Members for recommendations to improve the program, an overwhelming theme of improved funding consistency and a higher, competitive incentive cap came to light.

**FINAL VOTE BY FILM INDUSTRY TASK FORCE MEMBERS**

In response to these testimonials and in order to prepare recommendations for the 2023 Colorado Legislative Session, the Film Industry Task Force voted to approve the following recommendations during the December 16, 2022 Task Force Meeting:

- Given the inconsistent nature of program funding through the General Fund, **the film incentive program should be restructured from its current state as a cash rebate to a tax credit, which will be funded by TABOR refund dollars. There was a unanimous vote from present committee members, with one abstention to restructure the incentive as a tax credit**
- **In non-TABOR refund years, the Joint Budget Committee should make a determination as to annual gap funding from the general fund. In a non-TABOR refund year, the General Assembly or Joint Budget Committee will make**



**determinations on how much to allocate to the film incentive based on current budget projections. Unanimous vote with one abstention.**

- **Given surrounding western states annual incentive caps, the Colorado Film Incentive program should be funded beginning with a minimum of \$15M in its first year, with a potential of a tiered approach to add more funding annually or biannually subject to legislative determination to maintain competitiveness with surrounding states. Unanimous support and 1 abstention**
- **Percentage uplifts should be considered for filming in rural communities, marginalized urban centers, and for using local infrastructure.** Bill authors will further flesh out these (and potentially other) uplifts.
- **The new tax credit iteration of the film incentive program should be subject to review after an initial five year period.** Unanimous approval and one abstention.

### Conclusion

Colorado's film industry is growing and has the ability to be a true economic driver in the state. Colorado is already 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. However, Colorado will always be in competition with neighboring Western states when it comes to attracting film productions and film industry investment. Many states around us offer similar beautiful landscapes to the ones that initially attract productions to Colorado and offer much higher and more consistent film incentives.

With a more competitive and consistent film incentive program, Colorado will have the ability to attract more projects overall, and particularly high-budget, high-profile projects that will employ more Coloradans (and bring back tax-paying Coloradans who would want to return to the state were there a steady industry), spend more money locally, bring in more film tourism, and increase Colorado's visibility and impact on the global film industry.