

SENATE FILE NO. SF0024

Film industry financial incentive program.

Sponsored by: Joint Travel, Recreation, Wildlife & Cultural Resources Interim Committee

A BILL

for

1 AN ACT relating to economic development; creating the film  
2 industry financial incentive program; authorizing  
3 incentives for qualified film productions; authorizing  
4 investments in branded entertainment; authorizing matching  
5 funds for local film production opportunities; requiring  
6 rulemaking; providing for penalties; requiring reports;  
7 providing an appropriation; and providing for an effective  
8 date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 9-12-408 through 9-12-412 are created  
13 to read:

14

1           **9-12-408. Film industry financial incentive program;**  
2 **creation; account.**

3  
4           (a) There is created the film industry financial  
5 incentive program to be administered by the Wyoming tourism  
6 board. The purpose of the program is to:

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8           (i) Encourage the use of the state as a site for  
9 filming and providing production services for filmed  
10 entertainment;

11  
12           (ii) Promote the state as a tourist destination  
13 through investments in branded entertainment; or

14  
15           (iii) Match funds from local lodging taxes to  
16 support local film production opportunities.

17  
18           (b) There is created the film industry financial  
19 incentive program account. The account shall consist of  
20 those funds appropriated to the account by the legislature  
21 and all contributions, grants, gifts, bequests and  
22 donations to the account. Funds in the account shall not  
23 revert and are continuously appropriated to the board to be

1 used only for the purposes authorized under this act. The  
2 board shall report the balance carried forward in the  
3 account in the agency's biennial budget request submitted  
4 under W.S. 9-3-1013.

5

6 **9-12-409. Film industry financial incentive program;**  
7 **definitions.**

8

9 (a) As used in this act:

10

11 (i) "Board" means the Wyoming tourism board;

12

13 (ii) "Branded entertainment" means opportunities  
14 for the board to contract with, enter into an agreement or  
15 partner with production companies, major brands or other  
16 projects with Wyoming related video content;

17

18 (iii) "Filmed entertainment" means any motion  
19 picture, television production, commercial or music video  
20 to be sold or displayed in electronic medium or film motion  
21 pictures;

22

1           (iv) "Local film production opportunities" means  
2 any motion picture, television production, commercial or  
3 music video or other entertainment medium that would  
4 benefit a local community and would likely encourage  
5 members of the public to visit the local community;

6

7           (v) "Local lodging tax board" means any city,  
8 town or joint powers board imposing a tax as authorized by  
9 W.S. 39-15-204(a)(ii);

10

11           (vi) "Production costs" means the total cost of  
12 producing filmed entertainment;

13

14           (vii) "Program" means the film industry  
15 financial incentive program created under this act;

16

17           (viii) "Qualified expenditures" mean  
18 expenditures for goods purchased or leased or services  
19 purchased, leased or employed from a vendor or supplier who  
20 is located and doing business in this state if the  
21 expenditure was made in this state and was made for a  
22 qualified production. Qualified expenditures for which  
23 reimbursement may be made are limited to:

1

2 (A) Salaries and employment benefits for  
3 services rendered in and to residents of this state;

4

5 (B) Rents for real and personal property  
6 located in this state and used in the production;

7

8 (C) Payments for preproduction, production,  
9 post-production and digital media effects services provided  
10 in this state;

11

12 (D) Costs of set construction provided in  
13 this state.

14

15 (ix) "Qualified production" means filmed  
16 entertainment totally or partially produced and filmed in  
17 this state that would have widespread public appeal and  
18 would likely encourage members of the public to visit the  
19 state of Wyoming;

20

21 (x) "This act" means W.S. 9-12-408 through  
22 9-12-412.

23

1           **9-12-410. Film industry financial incentive program;**  
2 **qualified production reimbursements; eligibility;**  
3 **procedure; contractual commitments.**

4

5           (a) To the extent funding is available, the board may  
6 contract with any entity engaged in making a qualified  
7 production in this state for reimbursement of up to fifteen  
8 percent (15%) of the production's qualified expenditures if  
9 at least two hundred thousand dollars (\$200,000.00) in  
10 total qualified expenditures are made.

11

12           (b) The board shall by rule and regulation establish  
13 a process by which a contract under this act is formulated  
14 and executed and reimbursement amounts are determined. The  
15 rules and regulations shall include a process for  
16 determining:

17

18           (i) Whether the production is a qualified  
19 production;

20

21           (ii) The appropriate level of reimbursement for  
22 qualified expenditures and production costs, including:

23

1 (A) Production related employment;

2

3 (B) Proposed total production budgets;

4

5 (C) Planned expenditures in this state  
6 which are intended for use exclusively as an integral part  
7 of preproduction, production or post-production activities  
8 engaged in primarily in this state; and

9

10 (D) A signed affidavit by a person  
11 authorized to commit the entity that the information  
12 provided to the board has been verified and is correct.

13

14 (c) The board shall not contract with any qualified  
15 production for reimbursement of qualified expenditures  
16 under this section unless the board determines that  
17 adequate consideration to the state in exchange for the  
18 reimbursement will be provided under the contract. The  
19 reimbursement shall not exceed the amount of measurable  
20 benefit gained by the state resulting from the qualified  
21 production expenditures. The consideration may include:

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1           (i) Providing a storyline that is set in  
2 Wyoming;

3  
4           (ii) Providing additional Wyoming footage,  
5 interviews and other marketing assets;

6  
7           (iii) Providing a clear statement in the credits  
8 that the product was filmed in Wyoming.

9  
10          (d) No reimbursement of qualified expenditures shall  
11 be made by the board unless the qualified production is  
12 complete and substantially all contractual commitments made  
13 to the board have been fulfilled in accordance with board  
14 rule and regulation. If a qualified production is not  
15 completed according to a reasonable schedule, the contract  
16 shall be terminated and funds reallocated for any other  
17 purposes authorized under this act.

18

19           **9-12-411. Film industry financial incentive program;**  
20 **branded entertainment; matching funds for local film**  
21 **production opportunities.**

22

1           (a) To the extent funding is available, the board may  
2 contract, enter into an agreement or otherwise partner with  
3 an entity to invest in branded entertainment. The board  
4 shall by rule and regulation establish a process by which a  
5 contract, agreement or partnership under this subsection is  
6 formulated and executed and investment amounts are  
7 determined. The board shall not enter into any contract,  
8 agreement or partnership under this subsection unless the  
9 board determines that adequate consideration to the state  
10 in exchange for the investment will be provided. The  
11 investment shall not exceed the amount of measurable  
12 benefit gained by the state resulting from the investment  
13 in branded entertainment. The consideration may include  
14 the use of motion picture, television production,  
15 commercial or music video or other entertainment medium to  
16 raise the visibility of the Wyoming brand, increase  
17 marketing reach, utilize partner distribution channels or  
18 reach target audiences.

19

20           (b) To the extent funding is available, the board may  
21 contract, enter into an agreement or otherwise partner with  
22 a local lodging tax board for purposes of matching funds  
23 for local film production opportunities. The board shall

1 by rule and regulation establish a process by which a  
2 contract, agreement or partnership under this subsection is  
3 formulated and executed and matching funds are determined.  
4 No matching funds shall be expended by the board unless the  
5 board determines the funds would likely benefit local  
6 communities and increase awareness and marketing reach for  
7 local communities as a tourist destination.

8

9 **9-12-412. Film industry financial incentive program;**  
10 **reporting; fraudulent claims.**

11

12 (a) The sum of all contractual obligations,  
13 investments and matching funds expended under this act  
14 shall not exceed the total amount available for the program  
15 for any fiscal biennium.

16

17 (b) The board shall include within its biennial  
18 budget request submitted under W.S. 9-2-1013 a report on  
19 expenditures under this act in each of the immediately  
20 preceding two (2) fiscal years. The report shall include  
21 the return to the state on funds expended pursuant to this  
22 act.

23

1 (c) An entity that obtains payment under this act  
2 through a claim that is fraudulent is liable for  
3 reimbursement of the amount paid plus an amount double the  
4 payment plus reimbursement of reasonable costs. The  
5 amounts under this subsection are in addition to any  
6 criminal penalty for which the entity is liable for the  
7 same acts. The entity shall also be liable for costs and  
8 fees incurred by the state in investigating the fraudulent  
9 claim.

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11 **Section 2.** W.S. 39-15-211(a)(ii)(B)(I) is amended to  
12 read:

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14 **39-15-211. Distribution.**

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16 (a) For all revenue collected by the department from  
17 the taxes imposed under W.S. 39-15-204(a)(i), (ii), (v) and  
18 (vi) the department shall:

19

20 (ii) For revenues collected under W.S.  
21 39-15-204(a)(ii):

22

1                   (B) Except as provided in subparagraph  
2 (a)(ii)(C) of this section, distribute the balance on a  
3 monthly basis to the treasurer of each county, city or town  
4 imposing the tax in an amount equal to the amount collected  
5 in each entity less the costs of collection as provided by  
6 subparagraph (a)(ii)(A) of this section. Amounts  
7 distributed under this subparagraph shall be used for the  
8 following purposes:

9  
10                   (I) Except as provided by subdivision  
11 (III) of this subparagraph, at least ninety percent (90%)  
12 of the amount distributed shall be used to promote travel  
13 and tourism within the county, city or town imposing the  
14 tax. Expenditures for travel and tourism promotion shall be  
15 limited to promotional materials, television and radio  
16 advertising, printed advertising, promotion of tours and  
17 other specific tourism related objectives and for local  
18 film production opportunities as defined in W.S.  
19 9-12-409(a)(iv), provided that none of these funds shall be  
20 spent for capital construction or improvements and not more  
21 than forty thousand dollars (\$40,000.00) of these funds  
22 shall be spent for purposes of matching state general funds  
23 under the matching funds program administered by the

1 Wyoming business council. If the amount is collected under  
2 a tax imposed countywide, expenditures of this amount shall  
3 be made in accordance with the Uniform Municipal Fiscal  
4 Procedures Act by a joint powers board established pursuant  
5 to law by the county and a majority of incorporated  
6 municipalities within the county. Membership of the board  
7 shall include at least one (1) representative appointed by  
8 each governmental entity made a party to the agreement and  
9 the majority of the board membership shall be comprised of  
10 representatives of the travel and tourism industry;

11

12 **Section 3.** W.S. 9-12-407 is repealed.

13

14 **Section 4.** Any unexpended monies appropriated to the  
15 Wyoming tourism board by 2016 Wyoming Session Laws, Chapter  
16 31, Section 2, Section 066, footnote 1 shall be deposited  
17 in the film industry financial incentive program account  
18 created by this act.

19

1           **Section 5.** This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

5

6

(END)