

*As Amended by Senate Committee of the Whole*

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*Session of 2023*

**SENATE BILL No. 91**

By Committee on Commerce

1-24

1 AN ACT concerning economic development; enacting the Kansas film and  
2 digital media production development act; establishing an income tax  
3 credit; ~~and~~, sales tax exemption ~~and loan and grant fund loan and~~  
4 ~~grant~~ program to be administered by the secretary of commerce for  
5 the purpose of developing film, video or digital production in Kansas;  
6 ~~establishing the Kansas film and digital media production development~~  
7 ~~act education fund and the Kansas film and digital media production~~  
8 ~~development act workforce training and business direct investment~~  
9 ~~fund; establishing the Kansas film and digital media production~~  
10 ~~development act education fund and the Kansas film and digital~~  
11 ~~media production development act workforce training and business~~  
12 ~~direct investment fund;~~ amending K.S.A. 2022 Supp. 79-3606 and  
13 repealing the existing section.  
14

*Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. Sections 1 through ~~8-6~~ 8, and amendments thereto,  
16 shall be known and may be cited as the Kansas film and digital media  
17 production development act. The purpose of the Kansas film and digital  
18 media production development act is to incentivize film, video or digital  
19 media productions in Kansas and facilitate the development and growth of  
20 a film, video or digital media production industry and associated  
21 businesses supporting the industry in this state.  
22

New Sec. 2. As used in this act:

23 (a) "Above-the-line personnel" means any individual hired or credited  
24 on screen for an eligible production for work on the production or  
25 postproduction of film as a:

26 (1) Principal cast member compensated for the eligible production  
27 project at a screen actors guild schedule f or above payment rate; or  
28 (2) producer, screenwriter or director.

29 (b) "Act" means the Kansas film and digital media production  
30 development act.  
31

32 (c) "Affiliates" means those entities that are included in the  
33 production company's affiliated group as defined in section 1504(a) of the  
34 internal revenue code, 26 U.S.C. § 1504(a), and all other entities that are

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1 any anticipated construction or contribution of production infrastructure or  
2 participation in Kansas film and digital media industry development  
3 activities; and

4 (5) an economic impact statement showing the economic impact from  
5 the activities of the project. Such economic impact statement shall indicate  
6 the impact on the region of the state in which the project production or  
7 production-related activities are conducted and any impact on the state as a  
8 whole. The secretary may consider the size of the project when  
9 determining the scope and information required.

10 (d) (1) If the secretary determines that the project is an eligible  
11 project and approves the application, the production company shall enter  
12 into an agreement with the secretary prior to the commencement of the  
13 project on such terms and conditions as the secretary may require. Such  
14 terms and conditions shall include, but not be limited to, qualified Kansas  
15 promotions to be provided and any limitations the secretary may impose  
16 on the amounts of eligible production or postproduction expenditures that  
17 may be approved by the secretary as qualified expenditures, whether in  
18 total or for specified eligible expenditures or specified eligible expenditure  
19 categories.

20 (2) The production company shall agree to the provision of  
21 documentation and information to the secretary or the secretary of revenue  
22 on a regular basis as requested by the secretary or secretary of revenue to  
23 determine qualified expenditures and compliance with the requirements of  
24 this act and rules and regulations adopted by the secretary or the secretary  
25 of revenue pursuant to this act. The production company shall agree to the  
26 provision of information to the secretary on a regular basis as requested by  
27 the secretary regarding the progress of the project and estimated  
28 completion date.

29 (3) The terms and conditions shall include provisions for repayment  
30 of income tax credits or sales tax exempted if requirements of this act or  
31 rules and regulations are not met, provisions requiring cooperation with  
32 any audit conducted pursuant to this act and provisions for submission of  
33 information as required for publication on the Kansas economic incentive  
34 database and for the secretary's reports to the legislature as provided by  
35 section 5, and amendments thereto.

36 (4) The terms and conditions may also include agreements by the  
37 production company for the facilitation of, coordination with or provision  
38 of support services for Kansas businesses and organizations to enable  
39 participation in the project or the development of the Kansas film and  
40 digital media industry.

41 (5) If the secretary approves the agreement with the production  
42 company, the secretary shall authorize the eligible project as a certified  
43 project.

except that no agreement may be entered into by  
the secretary prior to January 1, 2027

1 in compliance with the requirements of this act. The report shall be  
2 provided with a claim for income tax credits as required by section 4, and  
3 amendments thereto, or as required by the secretary.

4 (h) The secretary shall notify the production company and the  
5 secretary of revenue of determinations of qualified expenditures made by  
6 the secretary.

7 (i) The secretary of commerce and the secretary of revenue may  
8 adopt rules and regulations to implement the provisions of this act.

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9 New Sec. 4. (a) For tax years ~~2023~~ through 2032, for any production  
10 company or its affiliates that make qualified production or qualified  
11 postproduction expenditures for a certified production approved by the  
12 secretary of commerce as provided by section 3, and amendments thereto,  
13 there shall be allowed an income tax credit against the tax imposed under  
14 the Kansas income tax act in the amount as determined pursuant to  
15 subsection (d) as limited by subsection (h). The tax credit shall be applied  
16 against the production company's income tax liability for the taxable year  
17 in which the qualified expenditures are made by the production company.  
18 If the amount of the tax credit allowed exceeds the production company's  
19 income tax liability for the taxable year, an amount equal to the remainder  
20 of the unused tax credits shall be refunded to the production company the  
21 production company may carry over the amount of the tax credit that  
22 exceeds such tax liability for deduction from the production company's  
23 income tax liability in the next succeeding taxable year or years until the  
24 total amount of the tax credit has been deducted from the production  
25 company's tax liability, except that no such tax credit shall be carried  
26 over for deduction after the 1<sup>st</sup> taxable year succeeding the year in  
27 which the qualified expenditures were made by the production company.  
28 If the production company is a corporation having an election in effect  
29 under subchapter S of the federal internal revenue code, a partnership or a  
30 limited liability company, the credit provided by this section shall be  
31 claimed by the shareholders of such corporation, the partners of such  
32 partnership or members of such limited liability company in the same  
33 manner as such shareholders, partners or members account for their  
34 proportionate shares of the income or loss of the corporation, partnership  
35 or limited liability company and in accordance with the agreement  
36 executed pursuant to section 3, and amendments thereto. The tax credit  
37 may be transferred as provided by subsection (k). The aggregate total  
38 amount of credits allowed under this section shall not exceed \$10,000,000  
39 in a tax year. Ten percent of such aggregate total in each tax year shall be  
40 designated for tax credits to Kansas-based production companies.  
41 (b) A claim for a tax credit shall be filed with the secretary of revenue  
42 as part of a return filed by the production company pursuant to the Kansas  
43 income tax act. The order that agreements are executed with the secretary

1 including, but not limited to, graduate job placement goals; and  
2 (C) require the Kansas educational institution to provide  
3 information as requested by the secretary for purposes of administering  
4 the grant program, monitoring the use of funds and the achievement of  
5 milestones and objectives and preparation of the report required by  
6 subsection (e).

7 (d) (1) Subject to appropriation acts, on July 1, 2023, and each July  
8 I thereafter through July 1, 2032, the director of accounts and reports  
9 shall transfer \$1,000,000 from the state general fund to the Kansas film  
10 and digital media production development act education fund. Any  
11 unexpended balance in such fund at the close of a fiscal year shall  
12 remain credited to the fund for use in the succeeding fiscal year.

13 (2) On January 1, 2033, the director of accounts and reports shall  
14 transfer all unencumbered moneys in the Kansas film and digital media  
15 production development act education fund to the state general fund.  
16 After such transfer and the disbursement of any encumbered funds  
17 pursuant to grant awards made prior to January 1, 2033, the Kansas  
18 film and digital media production development act education fund shall  
19 be abolished. Upon abolition of such fund, all liabilities of the  
20 Kansas film and digital media production development act education  
21 fund shall be transferred to and imposed on the state general fund.

22 (e) On or before January 31, 2024, and each January 31 through  
23 January 31, 2033, the secretary of commerce shall submit an annual  
24 report to the house of representatives standing committee on commerce,  
25 labor and economic development and the senate standing committee on  
26 commerce on the administration of the Kansas film and digital media  
27 production development act education fund and all grants awarded from  
28 the fund. Such report shall contain specific and aggregate information  
29 regarding all expenditures from the fund, the Kansas educational  
30 institutions receiving grants, the amount of funds expended for each  
31 grant, the reason and purpose for which each grant was approved,  
32 including how it was intended to further the purposes of the fund, the  
33 actual use of such grant funds by the Kansas educational institution and  
34 the accomplishment or progress made by the educational institution  
35 toward agreed milestones and objectives.

36 New Sec. 8. (a) The secretary of commerce is hereby authorized  
37 and empowered to award grants or loans from the Kansas film and  
38 digital media production development act workforce training and  
39 business direct investment fund in connection with projects certified by  
40 the secretary pursuant to section 3, and amendments thereto. The  
41 secretary shall award such grants or loans for the purpose of facilitating  
42 and supporting certified projects and developing the Kansas film and  
43 digital media industry by funding workforce training and by investing

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1 conditions shall include an agreement by the grant recipient to provide  
2 information as requested by the secretary for purposes of administering  
3 the grant program, monitoring the use of funds and preparation of the  
4 report required by subsection (f).

5 (d) (1) Direct investments made by the secretary of commerce from  
6 the Kansas film and digital media production development act workforce  
7 training and business direct investment fund shall be used for investing  
8 in Kansas film and digital media production industry companies that  
9 will or seek to be engaged in certified projects, including Kansas-based  
10 production companies or Kansas businesses that are offering personnel,  
11 services, facilities, leases or rentals or that are offering, engaged in or  
12 seeking to engage in other production or postproduction-related  
13 business activities. Investments may be made in Kansas start-ups,  
14 Kansas businesses seeking to expand into the film and digital media  
15 production industry or established Kansas businesses in such industry.

16 (2) Direct investments shall be comprised of a loan component in  
17 the amount of 80% and a grant component in the amount of 20% of the  
18 total award of funds to the recipient. The investment shall be made upon  
19 such terms and conditions as the secretary of commerce may deem  
20 appropriate. Such terms and conditions shall:

21 (A) Include specified objectives and milestones as required by the  
22 secretary and provisions for repayment of the grant or loan if conditions  
23 specified by the secretary are not met; and

24 (B) require the recipient to provide information as requested by the  
25 secretary for purposes of administering the direct investment program,  
26 monitoring the use of funds and achievement of milestones and  
27 objectives and preparation of the report required by subsection (f).

28 (e) (1) Subject to appropriation acts, on July 1, ~~2024~~, and each July  
29 1 thereafter through July 1, 2032, the director of accounts and reports  
30 shall transfer \$1,000,000 from the state general fund to the Kansas film  
31 and digital media production development act workforce training and  
32 business direct investment fund. Any unexpended balance in such fund  
33 at the close of a fiscal year shall remain credited to the fund for use in  
34 the succeeding fiscal year.

35 (2) On January 1, 2033, the director of accounts and reports shall  
36 transfer all unencumbered moneys in the Kansas film and digital media  
37 production development act workforce training and business direct  
38 investment fund to the state general fund. After such transfer and the  
39 disbursement of any encumbered funds pursuant to awards made prior  
40 to January 1, 2033, the Kansas film and digital media production  
41 development act workforce training and business direct investment fund  
42 shall be abolished. Upon abolishment of such fund, all liabilities of the  
43 Kansas film and digital media production development act workforce