

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

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

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

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

23 New Sec. 2. As used in this act:

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

27 (1) Principal cast member compensated for the eligible production
28 project at a screen actors guild schedule f or above payment rate; or

29 (2) producer, screenwriter or director.

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

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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Prepared by: Office of Revisor of Statutes

Material

1 50% or more owned, directly or indirectly, by members of the affiliated
2 group.

3 (d) "Based in Kansas" or "Kansas-based" means, in reference to a
4 vendor, production company or company, that the vendor, production
5 company or company is subject to income tax liability under the Kansas
6 income tax act and has a physical presence in Kansas and, with respect to a
7 production company, has maintained a physical presence in Kansas for at
8 least six months prior to submitting an application to the secretary
9 pursuant to section 3, and amendments thereto.

10 (e) "Certified production" or "certified project" means an eligible
11 production that has agreed to one or more qualified Kansas promotions
12 and that has been approved by the secretary of commerce as eligible for
13 tax incentives pursuant to the provisions of section 3, and amendments
14 thereto.

15 (f) "Crew" means any individual who works on production or
16 postproduction for an eligible production. "Crew" does not include above-
17 the-line personnel.

18 (g) (1) "Eligible production" or "eligible project" means a production:

19 (A) (i) Of a new film, video or digital project, or a portion or portions
20 of such project, produced in this state, including a feature film,
21 documentary, series, pilot, movie for television, televised commercial
22 advertisement, music video, video game, content-based mobile application
23 or a virtual reality, augmented reality, multi-media or new media project;

24 (ii) Produced in whole or in part, in short or in long form, and may
25 include animation, music and green screen, motion capture and similar
26 production techniques;

27 (iii) Fixed on a delivery system including, but not limited to, film
28 format or reels, videotape, computer drive or disc, laser disc or any
29 element of the digital domain, from which the program or completed
30 project is viewed or reproduced; and

31 (iv) Intended for multimeter commercial distribution via theaters,
32 video on demand, direct to DVD, streaming, digital platforms or electronic
33 delivery systems designed for the distribution or playing of interactive
34 games, licensing for exhibition by individual television stations, groups of
35 stations, networks, advertiser-supported sites, cable television stations,
36 streaming companies or public broadcasting stations; and

37 (B) That incurs or is reasonably anticipated to incur qualified
38 production or postproduction expenses of at least \$50,000, as determined
39 by the secretary.

40 (2) "Eligible production" or "eligible project" does not include:

41 (A) The coverage of news or athletic events, local advertising, local
42 interest programming, instructional videos, corporate videos, any project
43 that is not intended for multimeter commercial distribution or any portion

(1)

(ii) material of a pornographic nature; or
(iii) material that promotes the LGBTQ lifestyle or agenda

1 of a project not shot, recorded or created in Kansas; and
2 (B) any production of obscene material or an obscene performance as
3 defined in K.S.A. 2022 Supp. 21-6401, and amendments thereto.
4 (3) For purposes of the income tax credit as allowed under section
5 4(f), and amendments thereto, "eligible production" or "eligible project"
6 means the same as defined in paragraphs (1) and (2), except that a
7 production not intended for multimeter commercial distribution may be
8 included and the amount of eligible expenses required shall be at least
9 \$25,000.

10 (h) "Eligible television series" means a certified series television
11 production project intended for multimeter commercial distribution, with
12 an order for multiple episodes in a single season, not less than 25% of the
13 series season is filmed within Kansas and the production incurs qualifying
14 eligible expenses of more than \$50,000.

15 (i) "Eligible wages and salaries" means:
16 (1) (A) Wages or salaries paid by the production company to crew for
17 work in Kansas designated as for production or for postproduction of an
18 eligible production;

19 (B) for which the production company is required to remit
20 withholding payments to the department of revenue under the Kansas
21 withholding and declaration of estimated tax act; and
22 (C) at least 10% of the crew are residents of this state. The secretary
23 and the Kansas arts industry director may agree upon a higher percentage
24 requirement; and

25 (2) the amounts of wages, salaries or payments paid to above-the-line
26 personnel, except that the eligible amount of such wages, salaries or
27 payments shall not comprise more than 25% of qualified production
28 expenditures as defined in subsection (s).
29 (j) "Film" means a professional single media, multimedia, video or
30 audiovisual program or feature, that may be digital, that is not obscene
31 material or an obscene performance as defined in K.S.A. 2022 Supp. 21-
32 6401, and amendments thereto. "Film" includes, but is not limited to, film
33 produced for an interactive game or a documentary, special, music video,
34 television commercial or television program, or a portion thereof, that is
35 filmed or taped for cable, television, streaming network, national or
36 regional syndication or for a feature-length motion picture intended for
37 theatrical release or for network, streaming, national or regional
38 syndication or broadcast.

, material of a pornographic nature or
material that promotes the LGBTQ lifestyle
or agenda

39 (k) "High-impact production" means a certified production for which
40 production or postproduction expenditures are at least \$50,000,000, and at
41 least 1/3 of such total expenditures constitute qualified expenditures
42 approved by the secretary of commerce.
43 (l) "Kansas film media industry development expenditure" means