

HOUSE BILL No. 1315

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-33-7; IC 6-3.1-24.

Synopsis: Film and media tax incentive. Creates a film and media tax incentive under the venture capital investment tax credit provision. Adds organizations engaged in the business of making qualified media productions in Indiana to the definition of "qualified Indiana business" for purposes of the venture capital investment tax credit. Defines "qualified media production" and "qualified production expenditure" for purposes of the venture capital investment tax credit. Provides that credits allowed under the venture capital investment tax credit are transferrable among qualified businesses. Requires the Indiana destination development corporation (corporation) to conduct an economic impact study on a production being produced in a neighboring state with media production incentives. Requires the corporation to establish a pilot program and select a film or television project that features an Indiana based story set at an Indiana specific setting. Provides an enhanced tax credit for the pilot participant, provided the participant begins production of the project within one year of selection. Encourages the corporation to cooperate with the Indiana economic development corporation to establish a permanent multiyear film and media production program, to be known as "Film Indiana", and to employ a film commissioner and necessary staff in the Film Indiana program, and requires, when necessary, the film commissioner to: (1) work with the Indiana economic development corporation to develop a plan to attract the needed components to build the infrastructure for a film and media production industry in the state of Indiana; and (2) work with the department of workforce development and Indiana film and media schools to create a workforce
(Continued next page)

Effective: January 1, 2022 (retroactive).

Morris, Lehman, Mayfield, Baird

January 11, 2022, read first time and referred to Committee on Ways and Means.



Digest Continued

development plan to include training for film and media professionals and internship opportunities for students attending film and media schools within Indiana. Requires the film commissioner to report on the plans to the Indiana economic development corporation and the corporation by December 1, 2022. Requires the Indiana economic development corporation to expand the venture capital investment tax credit so as to establish a permanent multiyear film and media production incentive. Requires an applicant for the tax credit to agree to various requirements surrounding the production.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1315

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 5-33-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2022 (RETROACTIVE)]:
4 **Chapter 7. Qualified Media Productions**
5 **Sec. 1. (a) The corporation shall conduct an economic impact**
6 **study on a project being produced in a neighboring state with**
7 **media production incentives that would qualify as a qualified**
8 **media production under IC 6-3.1-24-3.5.**
9 **(b) The economic impact study must include the following items**
10 **related to the production:**
11 **(1) A detailed description of the production.**
12 **(2) An analysis of the expenditures and return on investment**
13 **related to the production.**
14 **(3) An analysis of the overall economic impact of the**
15 **production on the neighboring state.**



1 (4) A description of any other factors related to the
2 production that the corporation considers important.

3 (c) After December 31, 2022, and before April 1, 2023, the
4 corporation shall provide a report to the general assembly on the
5 economic impact study. The report must be in an electronic format
6 under IC 5-14-6.

7 Sec. 2. (a) The corporation shall establish a pilot program and
8 select a qualified media production (as defined in IC 6-3.1-24-3.5)
9 limited to a film or television project that features an Indiana
10 based story set at an Indiana specific setting.

11 (b) In order to qualify for the enhanced credit under
12 IC 6-3.1-24-8(f), the qualified Indiana business that is selected for
13 the pilot program under this section must begin production on the
14 project within one (1) year after being selected.

15 Sec. 3. The corporation is encouraged to cooperate with the
16 Indiana economic development corporation to establish a
17 permanent multiyear film and media production program, to be
18 known as "Film Indiana", and to employ a film commissioner and
19 necessary staff in the Film Indiana program of the corporation.

20 Sec. 4. Whenever necessary, the film commissioner shall:

21 (1) work with the Indiana economic development corporation
22 to develop a plan to attract the needed components to build
23 the infrastructure for a film and media production industry
24 in the state of Indiana;

25 (2) work with the department of workforce development and
26 Indiana film and media schools to create a workforce
27 development plan to include training for film and media
28 professionals and internship opportunities for students
29 attending film and media schools within Indiana; and

30 (3) report on the plans described in subdivisions (1) and (2) to
31 the Indiana economic development corporation and the
32 corporation by December 1, 2022.

33 Sec. 5. The Indiana economic development corporation shall
34 expand the venture capital investment tax credit under IC 6-3.1-24
35 to establish a permanent multiyear film and media production
36 incentive program.

37 Sec. 6. An applicant engaged in a qualified media production
38 seeking the credit under IC 6-3.1-24-8 must agree to the following:

39 (1) To include a statement reading "filmed in Indiana" in the
40 credits of the qualified media production, if the production
41 includes credits. When practical, the credits should also
42 contain details, such as location, with regard to each specific



1 scene that was filmed in Indiana.

2 (2) To include the logo of Film Indiana in the credits of the
3 qualified media production, if the production includes credits.

4 (3) To submit to Film Indiana a viewable copy of the final
5 qualified media production not later than ten (10) days after
6 the production is complete and is commercially available to
7 the general public.

8 (4) To provide Film Indiana with specified promotional
9 material for the qualified media production, including photos,
10 trailer scenes, and poster art.

11 (5) To convey to Film Indiana a copyright license that permits
12 Film Indiana to use the promotional material for archival
13 purposes, government relation purposes, and marketing
14 purposes.

15 (6) To the review and audit of the qualified expenditures of
16 the qualified media production by the film commissioner who
17 may determine if the qualified production expenditures are
18 reasonable.

19 (7) To offer paid and unpaid internship opportunities on the
20 production to students from film and media production
21 programs at Indiana colleges and universities.

22 SECTION 2. IC 6-3.1-24-2, AS AMENDED BY P.L.4-2005,
23 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JANUARY 1, 2022 (RETROACTIVE)]: Sec. 2. As used in this
25 chapter, "qualified Indiana business" means:

26 (1) an independently owned and operated business that is certified
27 as a qualified Indiana business by the Indiana economic
28 development corporation under section 7 of this chapter; or

29 (2) a person, corporation, partnership, limited liability
30 partnership, limited liability company, or other entity that:

31 (A) is engaged in the business of making a qualified media
32 production in Indiana; and

33 (B) has any state tax liability.

34 The term includes an assignee that is assigned some part of a credit
35 under this chapter.

36 SECTION 3. IC 6-3.1-24-3.5 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: Sec. 3.5. (a) As
39 used in this chapter, "qualified media production" refers to the
40 following for which at least fifty percent (50%) of the total
41 incurred expenses for production are qualified production
42 expenditures:



- 1 (1) A feature length film, including an independent or studio
 2 production, or a documentary.
 3 (2) A television episodic series, program, or feature.
 4 (3) A digital media production that is intended for reasonable
 5 commercial exploitation.
 6 (4) A music video, video game, or game show.
 7 (5) An advertising message, except for political advertising,
 8 that is intended to be distributed in any media form.
 9 (6) An educational media production, if the educational media
 10 production is not produced primarily for industrial or
 11 corporate purposes.
 12 (7) Animation or music recorded in Indiana fixed on any
 13 delivery system, including film, videotape, computer disc,
 14 laser disc, or any digital format.
- 15 (b) The term does not include the following:
- 16 (1) Television coverage of:
- 17 (A) athletic events;
 18 (B) news; or
 19 (C) current events.
- 20 (2) Programs that include weather reports or financial reports
 21 as a material portion of the program.
- 22 (3) Talk shows in which a host interviews or talks with guests.
- 23 (4) Awards shows or gala productions.
- 24 (5) Any production that is intended to solicit donations, other
 25 than donations that are:
- 26 (A) deductible, in whole or in part, for federal income tax
 27 purposes; or
 28 (B) solicited as funding for a project or business venture.
- 29 (6) Any political advertising message.
- 30 (7) A production produced primarily for industrial or
 31 corporate purposes.
- 32 (8) A production in any medium that is obscene (under the
 33 standard set forth in IC 35-49-2-1).
- 34 SECTION 4. IC 6-3.1-24-3.6 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: **Sec. 3.6. (a) As**
 37 **used in this chapter, "qualified production expenditure" means**
 38 **any of the following expenses incurred in Indiana or expenditures**
 39 **in Indiana that are made in the direct production (including the**
 40 **direct preproduction and direct postproduction) of a qualified**
 41 **media production in Indiana:**
- 42 (1) Acquisition costs for locations, facilities, offices, and



- 1 equipment, including film studios, television studios, media
2 studios, and other infrastructure.
- 3 (2) Acquisition costs for sets, production props, wardrobes,
4 special effects, and accessories.
- 5 (3) Expenditures for materials used to make and operate sets,
6 production props, wardrobes, special effects, and accessories.
- 7 (4) Expenditures for photography, sound synchronization,
8 film processing, digital imaging, lighting, and related services.
- 9 (5) Expenditures for editing, visual effects, sound mixing,
10 composing, animation, music supervision, and related
11 services.
- 12 (6) Food and lodging.
- 13 (7) Expenditures for travel within Indiana at a rate that is not
14 more than the Internal Revenue Service standard mileage
15 rate used to calculate the deductible costs of operating an
16 automobile for business.
- 17 (8) Commercial airfare travel expenditures incurred to
18 transport cast members and crew members to and from
19 Indiana.
- 20 (9) Legal services, if purchased from an attorney admitted to
21 the Indiana bar.
- 22 (10) Accounting services, if purchased from a certified public
23 accountant licensed in Indiana.
- 24 (11) Shipping costs when a shipment is originating from a
25 location in Indiana.
- 26 (12) Receiving costs when a shipment is received at a location
27 in Indiana.
- 28 (13) Any other production expenditure for which taxes are
29 assessed or imposed by the state.
- 30 (14) The total sum expended on wages, salaries, and benefits.
31 Expenses under this subdivision do not include expenses
32 described in subdivision (15) or (17).
- 33 (15) Expenditures for skilled workforce training of crew
34 members who are qualified Indiana residents.
- 35 (16) Financing fees, if the entity charging the fees is a financial
36 institution (as defined in IC 5-13-4-10) in Indiana.
- 37 (17) The payment of student internships, if the student who
38 receives the internship payment is enrolled at a state
39 educational institution (as defined in IC 21-7-13-32).
- 40 (18) Expenditures for acquisition of rights to a story or story
41 material and scripts.
- 42 (19) Acquisition costs and expenditures for:



- 1 (A) vehicles that are to be directly used as part of the
2 qualified media production; and
3 (B) the leasing or rental of vehicles.
- 4 (b) The term does not include the following expenses or
5 expenditures:
- 6 (1) Expenditures for tangible personal property acquired in
7 a transaction outside Indiana, even if the property is subject
8 to the use tax under IC 6-2.5-3.
9 (2) The payment of penalties or fines.
10 (3) The performance of services or the conveyance of property
11 in an in kind exchange.
12 (4) Any production expenditures for tangible personal
13 property or services that are acquired from a business (or an
14 agent of a business) that does not maintain a physical
15 presence in Indiana.
16 (5) Expenditures for cellular telephone service.
17 (6) Marketing and advertising costs.
18 (7) Any expenses that are incurred after the qualified media
19 production becomes commercially available to the general
20 public.
21 (8) Airfare travel expenditures for private or chartered
22 aircraft.
23 (9) Acquisition costs of vehicles that are not to be directly
24 used as part of the qualified media production.
- 25 SECTION 5. IC 6-3.1-24-4.5, AS ADDED BY P.L.165-2021,
26 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JANUARY 1, 2022 (RETROACTIVE)]: Sec. 4.5. (a) As used in this
28 chapter, "substantial presence" means:
29 (1) maintaining a company headquarters in Indiana; or
30 (2) maintaining at least seventy-five percent (75%) of a company's
31 total payroll in Indiana.
- 32 (b) Notwithstanding subsection (a), a company receiving qualified
33 investment capital from a qualified Indiana investment fund shall be
34 considered to have substantial presence in Indiana if the company
35 commits to relocate:
36 (1) its headquarters; or
37 (2) seventy-five percent (75%) of its total payroll;
38 to Indiana within one (1) year of receiving qualified investment capital
39 from a qualified Indiana investment fund.
- 40 (c) A person, corporation, partnership, limited liability
41 partnership, limited liability company, or other entity that is
42 engaged in the business of making a qualified media production in



1 **Indiana and has any state tax liability as described in section 2 of**
 2 **this chapter is not subject to the substantial presence requirement**
 3 **described under this section.**

4 SECTION 6. IC 6-3.1-24-7, AS AMENDED BY P.L.172-2011,
 5 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2022 (RETROACTIVE)]: Sec. 7. (a) The Indiana
 7 economic development corporation shall certify that a business is a
 8 qualified Indiana business if the corporation determines that the
 9 business:

- 10 (1) has its headquarters in Indiana;
 11 (2) is primarily focused on professional motor vehicle racing,
 12 commercialization of research and development, technology
 13 transfers, or the application of new technology, or is determined
 14 by the Indiana economic development corporation to have
 15 significant potential to:
 16 (A) bring substantial capital into Indiana;
 17 (B) create jobs;
 18 (C) diversify the business base of Indiana; or
 19 (D) significantly promote the purposes of this chapter in any
 20 other way;
 21 (3) has had average annual revenues of less than ten million
 22 dollars (\$10,000,000) in the two (2) years preceding the year in
 23 which the business received qualified investment capital from a
 24 taxpayer claiming a credit under this chapter;
 25 (4) has:
 26 (A) at least fifty percent (50%) of its employees residing in
 27 Indiana; or
 28 (B) at least seventy-five percent (75%) of its assets located in
 29 Indiana; and
 30 (5) is not engaged in a business involving:
 31 (A) real estate;
 32 (B) real estate development;
 33 (C) insurance;
 34 (D) professional services provided by an accountant, a lawyer,
 35 or a physician;
 36 (E) retail sales, except when the primary purpose of the
 37 business is the development or support of electronic commerce
 38 using the Internet; or
 39 (F) oil and gas exploration.

40 **(b) The Indiana economic development corporation shall certify**
 41 **that a business is a qualified Indiana business if the Indiana**
 42 **economic development corporation determines that the business is**



1 **approved by the Indiana destination development corporation as**
 2 **a person, corporation, partnership, limited liability partnership,**
 3 **limited liability company, or other entity that is engaged in the**
 4 **business of making a qualified media production in Indiana.**

5 ~~(b)~~ (c) A business shall apply to be certified as a qualified Indiana
 6 business on a form prescribed by the Indiana economic development
 7 corporation.

8 ~~(c)~~ (d) If a business is certified as a qualified Indiana business under
 9 this section, the Indiana economic development corporation shall
 10 provide a copy of the certification to the investors in the qualified
 11 Indiana business for inclusion in tax filings.

12 ~~(d)~~ (e) Except as provided in subsection ~~(e)~~; (f), the Indiana
 13 economic development corporation may impose an application fee of
 14 not more than two hundred dollars (\$200).

15 ~~(e)~~ (f) The Indiana economic development corporation may not
 16 impose the application fee authorized by subsection ~~(d)~~ (e) for
 17 applications submitted during the period beginning July 1, 2011, and
 18 ending June 30, 2013.

19 SECTION 7. IC 6-3.1-24-8, AS AMENDED BY P.L.165-2021,
 20 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2022 (RETROACTIVE)]: Sec. 8. (a) A certification
 22 provided under section 7 of this chapter must include notice to the
 23 investors of the maximum amount of tax credits available under this
 24 chapter for the provision of qualified investment capital to the qualified
 25 Indiana business.

26 (b) For a calendar year ending before January 1, 2011, the maximum
 27 amount of tax credits available under this chapter for the provision of
 28 qualified investment capital to a particular qualified Indiana business
 29 equals the lesser of:

30 (1) the total amount of qualified investment capital provided to
 31 the qualified Indiana business in the calendar year, multiplied by
 32 twenty percent (20%); or

33 (2) five hundred thousand dollars (\$500,000).

34 (c) For a calendar year beginning after December 31, 2010, and
 35 ending before January 1, 2022, the maximum amount of tax credits
 36 available under this chapter for the provision of qualified investment
 37 capital to a particular qualified Indiana business equals the lesser of the
 38 following:

39 (1) The total amount of qualified investment capital provided to
 40 the qualified Indiana business in the calendar year, multiplied by
 41 twenty percent (20%).

42 (2) One million dollars (\$1,000,000).



1 (d) For a calendar year beginning after December 31, 2021, the
 2 maximum amount of tax credits available under this chapter for the
 3 provision of qualified investment capital to a particular qualified
 4 Indiana business equals the lesser of the following:

5 (1) The total amount of qualified investment capital provided to
 6 the qualified Indiana business in the calendar year, multiplied by
 7 twenty-five percent (25%).

8 (2) One million dollars (\$1,000,000).

9 (e) Notwithstanding subsection (d), for a calendar year beginning
 10 after December 31, 2021, the maximum amount of tax credits available
 11 under this chapter for the provision of qualified investment capital to
 12 a particular qualified Indiana business, if the qualified Indiana business
 13 is a minority business enterprise or a women's business enterprise,
 14 equals the lesser of the following:

15 (1) The total amount of qualified investment capital provided to
 16 the qualified Indiana business in the calendar year, multiplied by
 17 thirty percent (30%).

18 (2) One million five hundred thousand dollars (\$1,500,000).

19 **(f) Notwithstanding subsection (d), for a calendar year**
 20 **beginning after December 31, 2022, the maximum amount of tax**
 21 **credits available under this chapter for the provision of qualified**
 22 **investment capital to a particular qualified Indiana business, if the**
 23 **qualified Indiana business is engaged in the pilot program**
 24 **established by the Indiana destination development corporation**
 25 **under IC 5-33-7-2, equals the lesser of the following:**

26 **(1) The total amount of qualified investment capital provided**
 27 **to the qualified Indiana business in the calendar year,**
 28 **multiplied by thirty percent (30%).**

29 **(2) Four million dollars (\$4,000,000).**

30 **(g) Credits under this chapter granted to qualified Indiana**
 31 **businesses engaged in the business of making qualified media**
 32 **productions in Indiana are transferrable to other qualified Indiana**
 33 **businesses.**

34 SECTION 8. [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]
 35 (a) IC 5-33-7, IC 6-3.1-24-3.5, and IC 6-3.1-24-3.6, all as added by
 36 this act, and IC 6-3.1-24-2, IC 6-3.1-24-4.5, IC 6-3.1-24-7, and
 37 IC 6-3.1-24-8, all as amended by this act, apply to taxable years
 38 beginning after December 31, 2021.

39 (b) This SECTION expires July 1, 2025.

40 SECTION 9. An emergency is declared for this act.

