

# HOUSE BILL No. 1409

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-32.3.

**Synopsis:** Film and media production rebate. Authorizes the Indiana economic development corporation (IEDC) to approve and issue a film and media production expenditure rebate (rebate) to a qualified applicant that proposes to make a qualified production expenditure of at least \$500,000 in Indiana. Requires the IEDC to enter into an agreement with a qualified applicant for the rebate, and specifies the terms that must be in the agreement. Establishes the criteria for approving a rebate and the procedures for claiming a rebate. Appropriates money to the IEDC on July 1, 2019, for payment of the rebates. Provides that the IEDC may not issue a rebate to a qualified applicant after December 31, 2024. Limits the amount of all rebates that may be made by the IEDC to \$15,000,000.

**Effective:** January 1, 2018 (retroactive).

---

---

**Frizzell, Karickhoff, Mahan,  
Hatfield**

---

---

January 16, 2018, read first time and referred to Committee on Ways and Means.

---

---



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1409

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

1 SECTION 1. IC 6-3.1-32.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2018 (RETROACTIVE)]:

4 **Chapter 32.3. Indiana Film and Media Production Expenditure**  
5 **Rebate**

6 **Sec. 1. As used in this chapter, "corporation" refers to the**  
7 **Indiana economic development corporation.**

8 **Sec. 2. As used in this chapter, "Film Indiana" refers to the state**  
9 **agency that provides support for the film, television, commercial,**  
10 **and news media industries.**

11 **Sec. 3. As used in this chapter, "qualified applicant" means a**  
12 **person, corporation, partnership, limited liability partnership,**  
13 **limited liability company, or other entity that is engaged in the**  
14 **business of making a qualified media production in Indiana.**

15 **Sec. 4. As used in this chapter, "qualified Indiana resident"**  
16 **means an individual who meets any of the following requirements:**

17 **(1) The individual:**



- 1 (A) maintains a dwelling in Indiana as the individual's  
 2 principal place of residence and is present in Indiana for  
 3 not less than six (6) months during the year; and  
 4 (B) has signed a declaration of residency that certifies that  
 5 the individual has maintained a dwelling in Indiana as the  
 6 individual's principal place of residence for not less than  
 7 six (6) months immediately preceding the production start  
 8 date for the applicable qualified media production.
- 9 (2) The individual is a graduate of a state educational  
 10 institution (as defined in IC 21-7-13-32) or an approved  
 11 postsecondary educational institution (as defined in  
 12 IC 21-7-13-6(a)(1)).
- 13 (3) The individual was a resident of Indiana during any  
 14 previous year.
- 15 **Sec. 5. (a) As used in this chapter, "qualified media production"**  
 16 **refers to the following for which at least fifty percent (50%) of the**  
 17 **total incurred expenses for production are qualified production**  
 18 **expenditures:**
- 19 (1) A feature length film, including an independent or studio  
 20 production, or a documentary.  
 21 (2) A television episodic series, program, or feature.  
 22 (3) A digital media production that is intended for reasonable  
 23 commercial exploitation.  
 24 (4) A music video, video game, or game show.  
 25 (5) An advertising message, except for political advertising,  
 26 that is intended to be distributed in any media form.  
 27 (6) An educational media production, provided that the  
 28 educational media production is not produced primarily for  
 29 industrial or corporate purposes.
- 30 (b) The term does not include the following:
- 31 (1) Television coverage of:  
 32 (A) athletic events;  
 33 (B) news; or  
 34 (C) current events.  
 35 (2) Programs that include weather reports or financial reports  
 36 as a material portion of the program.  
 37 (3) Talk shows in which a host interviews or talks with guests.  
 38 (4) Awards shows or gala productions.  
 39 (5) Any production that is intended to solicit donations, other  
 40 than donations that are:  
 41 (A) deductible, in whole or in part, for federal income tax  
 42 purposes; or



- 1           **(B) solicited as funding for a project or business venture.**  
 2           **(6) Any political advertising message.**  
 3           **(7) A production produced primarily for industrial or**  
 4           **corporate purposes.**  
 5           **(8) A production in any medium that is obscene (under the**  
 6           **standard set forth in IC 35-49-2-1).**  
 7           **Sec. 6. (a) As used in this chapter, "qualified production**  
 8           **expenditure" means any of the following expenses incurred in**  
 9           **Indiana or expenditures in Indiana that are made in the direct**  
 10           **production (including the direct reproduction and direct**  
 11           **postproduction) of a qualified media production in Indiana:**  
 12           **(1) Acquisition costs for locations, facilities, offices,**  
 13           **equipment, and vehicles.**  
 14           **(2) Acquisition costs for sets, production props, wardrobes,**  
 15           **special effects, and accessories.**  
 16           **(3) Expenditures for materials used to make sets, production**  
 17           **props, wardrobes, special effects, and accessories.**  
 18           **(4) Expenditures for photography, sound synchronization,**  
 19           **film processing, digital imaging, lighting, and related services.**  
 20           **(5) Expenditures for editing, visual effects, sound mixing,**  
 21           **composing, animation, music supervision, and related**  
 22           **services.**  
 23           **(6) Food and lodging.**  
 24           **(7) Expenditures for travel within Indiana at a rate that is not**  
 25           **more than the Internal Revenue Service standard mileage**  
 26           **rate used to calculate the deductible costs of operating an**  
 27           **automobile for business.**  
 28           **(8) Airfare travel expenditures incurred to transport cast**  
 29           **members and crew members to and from Indiana.**  
 30           **(9) Legal services, if purchased from an attorney admitted to**  
 31           **the Indiana bar.**  
 32           **(10) Accounting services, if purchased from a certified public**  
 33           **accountant licensed in Indiana.**  
 34           **(11) Shipping costs when originating from a location in**  
 35           **Indiana.**  
 36           **(12) Receiving costs when a shipment is received at a location**  
 37           **in Indiana.**  
 38           **(13) Any other production expenditure for which taxes are**  
 39           **assessed or imposed by the state.**  
 40           **(14) The payment of wages, salaries, and benefits to qualified**  
 41           **Indiana residents.**  
 42           **(15) Expenditures for skilled workforce training of crew**



1 members who are qualified Indiana residents.

2 (16) Financing fees, if the entity charging the fees is a financial  
3 institution (as defined in IC 5-13-4-10) in Indiana.

4 (17) The payment of student internships, if the student who  
5 receives the internship payment is enrolled at a state  
6 educational institution (as defined in IC 21-7-13-32).

7 (b) The term does not include the following expenditures:

8 (1) Expenditures for tangible personal property acquired in  
9 a transaction outside Indiana, even if the property is subject  
10 to the use tax under IC 6-2.5-3.

11 (2) The payment of wages, salaries, and benefits to an  
12 individual who is not a qualified Indiana resident.

13 (3) The payment of penalties or fines.

14 (4) The performance of services or the conveyance of property  
15 in an in kind exchange.

16 (5) Any production expenditures for tangible personal  
17 property or services that are acquired from a business (or an  
18 agent of a business) that does not maintain a physical  
19 presence in Indiana.

20 (6) Expenditures for cellular telephone service.

21 (7) Marketing and advertising costs.

22 (8) Any expenses that are incurred after the qualified media  
23 production becomes commercially available to the general  
24 public.

25 Sec. 7. (a) A qualified applicant that proposes to incur or make  
26 a qualified production expenditure of at least five hundred  
27 thousand dollars (\$500,000) in Indiana may apply to the  
28 corporation for approval of a rebate from the corporation under  
29 this chapter. An application must be submitted before incurring or  
30 making the qualified production expenditures.

31 (b) The corporation shall prescribe the form of the application.

32 Sec. 8. (a) Subject to subsection (b), a rebate approved by the  
33 corporation under this chapter is equal to the product of:

34 (1) the amount of the applicant's qualified production  
35 expenditures in the taxable year; multiplied by

36 (2) the percentage determined by the corporation under  
37 section 9 of this chapter.

38 (b) The maximum amount of all rebates that may be allowed  
39 under this chapter is fifteen million dollars (\$15,000,000).

40 Sec. 9. (a) The corporation shall review an application  
41 submitted under section 7 of this chapter not later than thirty (30)  
42 days after the application is received.



1           (b) An applicant for a rebate shall pay an application fee of two  
2 hundred dollars (\$200) to the corporation at the time an  
3 application is submitted.

4           (c) After receiving and reviewing an application, the  
5 corporation may enter into an agreement with the applicant for a  
6 rebate under this chapter if the corporation determines that:

7           (1) the applicant's proposed qualified media production:

8                   (A) is economically viable; and

9                   (B) will increase economic growth and job creation in  
10 Indiana; and

11           (2) the applicant's proposed qualified media production and  
12 qualified production expenditures otherwise satisfy the  
13 requirements of this chapter.

14           (d) The corporation shall consult with Film Indiana in making  
15 the decision to enter into an agreement with an applicant under  
16 subsection (c).

17           (e) If the corporation and an applicant enter into an agreement  
18 under this section, the agreement must contain at least the  
19 following provisions:

20           (1) The percentage to be used under section 8(a)(2) of this  
21 chapter in determining the amount of the rebate. The  
22 percentage amount may not be more than:

23                   (A) thirty-five percent (35%), in the case of qualified  
24 production expenditures for:

25                           (i) skilled workforce training described in section  
26 6(a)(15) of this chapter; or

27                           (ii) the payment of student internships described in  
28 section 6(a)(17) of this chapter;

29                   (B) thirty percent (30%), in the case of qualified  
30 production expenditures for the payment of wages,  
31 salaries, and benefits described in section 6(a)(14) of this  
32 chapter; or

33                   (C) twenty percent (20%), in the case of all other qualified  
34 production expenditures described in section 6(a) of this  
35 chapter.

36           (2) A statement of the maximum amount of all rebates that  
37 may be allowed under section 8(b) of this chapter.

38           (3) The following conditions that the applicant must satisfy  
39 before the applicant may claim the rebate:

40                   (A) The applicant must certify that the applicant has not  
41 engaged in the production of obscene material (under the  
42 standard set forth in IC 35-49-2-1).



- 1           **(B) In the case of a production of a feature length film or**  
 2           **episodic series, the principal photography for the**  
 3           **production must commence not later than one hundred**  
 4           **twenty (120) days after the applicant receives a letter of**  
 5           **intent for financing of the production.**  
 6           **(C) In the case of a production of an advertising message,**  
 7           **the principal photography for the production must**  
 8           **commence not later than forty-five (45) days after the**  
 9           **applicant receives a letter of intent for financing of the**  
 10           **production.**  
 11           **(4) The following obligations of the applicant:**  
 12           **(A) The applicant must agree to comply with applicable**  
 13           **state and federal laws during the course of the production,**  
 14           **including:**  
 15                   **(i) the federal Fair Labor Standards Act of 1938, as**  
 16                   **amended (29 U.S.C. 201 et seq.);**  
 17                   **(ii) the state minimum wage law under IC 22-2-2;**  
 18                   **(iii) worker's compensation system requirements under**  
 19                   **IC 22-3-5 and IC 22-3-7; and**  
 20                   **(iv) unemployment compensation system requirements**  
 21                   **under IC 22-4-1 through IC 22-4-39.5.**  
 22           **(B) The applicant must agree to place in the credits of the**  
 23           **production (if the production contains credits):**  
 24                   **(i) a statement indicating "filmed in Indiana"; and**  
 25                   **(ii) the logo of Film Indiana.**  
 26           **(C) The applicant must agree to submit to Film Indiana a**  
 27           **viewable copy of the final qualified media production not**  
 28           **later than ten (10) days after the production is complete**  
 29           **and is commercially available to the general public.**  
 30           **(D) The applicant must agree to provide Film Indiana with**  
 31           **specified promotional material for the qualified media**  
 32           **production (such as photos, trailer scenes, and poster art).**  
 33           **In addition, the applicant must agree to convey to Film**  
 34           **Indiana a copyright license that permits Film Indiana to**  
 35           **use the promotional material for archival purposes,**  
 36           **governmental relations purposes, and marketing purposes.**  
 37           **(5) The following consents to civil process and procedures in**  
 38           **Indiana:**  
 39                   **(A) The applicant must consent that the applicant (and any**  
 40                   **successor in interest in any part of the applicant) will be**  
 41                   **subject to the jurisdiction of Indiana courts.**  
 42                   **(B) The applicant must consent that service of process in**



1 accordance with the Indiana Rules of Trial Procedure is  
 2 proper service and subjects the applicant (and any  
 3 successor in interest in any part of the applicant) to the  
 4 jurisdiction of Indiana courts.

5 (C) The applicant must consent that any civil action  
 6 related to the provisions of this chapter in which the  
 7 applicant (or any successor in interest in any part of the  
 8 applicant) is a party will be heard in an Indiana court.

9 (f) Not later than ten (10) days after the corporation and an  
 10 applicant enter into an agreement under this section, the applicant  
 11 shall pay a final administrative review fee to the corporation. The  
 12 amount of the fee is:

13 (1) one thousand dollars (\$1,000), in the case of a qualified  
 14 media production that is a feature length film; or

15 (2) five hundred dollars (\$500), in the case of all other  
 16 qualified media productions.

17 **Sec. 10. (a)** A qualified applicant that has entered into an  
 18 agreement with the corporation under section 9 of this chapter  
 19 may file a claim for a rebate with the corporation as set forth  
 20 under this section.

21 (b) A qualified applicant shall provide the corporation with any  
 22 information necessary to determine the qualified applicant's  
 23 compliance with the terms of the qualified applicant's agreement  
 24 with the corporation and the amount of the rebate to which the  
 25 qualified applicant is entitled under this chapter.

26 (c) A qualified applicant must also submit a digital copy of the  
 27 completed qualified media production with the qualified  
 28 applicant's claim for a rebate under this section.

29 (d) Subject to subsection (f), a rebate issued under this chapter  
 30 is payable from money appropriated to the corporation.

31 (e) Beginning July 1, 2019, the amount necessary to implement  
 32 this section is continuously appropriated from the state general  
 33 fund to the corporation for the purposes of this chapter.

34 (f) A rebate may not be issued by the corporation under this  
 35 section after December 31, 2024.

36 (g) The corporation may adopt guidelines and prescribe forms  
 37 necessary to implement this section.

38 **Sec. 11. (a)** A qualified applicant may assign the qualified  
 39 applicant's right to receive a rebate to which the qualified  
 40 applicant is entitled under this chapter.

41 (b) A right to receive a rebate that is assigned under this section  
 42 remains subject to the qualified applicant's agreement with the





1 corporation under section 9 of this chapter and the provisions of  
2 this chapter.

3 (c) An assignment under this section must be in writing and  
4 signed by contracting parties to the assignment.

5 (d) If the right to receive a rebate is assigned under this section,  
6 the qualified applicant must report the assignment to the  
7 corporation and provide the corporation with a copy of the written  
8 assignment not later than ten (10) days after the assignment is  
9 made.

10 Sec. 12. If an applicant (or any successor in interest in any part  
11 of the applicant) fails to satisfy any condition of this chapter or any  
12 condition or obligation in an agreement under section 9 of this  
13 chapter, the corporation may take any of the following actions:

14 (1) Reject all or part of the applicant's (or the applicant's  
15 successor's) claim for a rebate under this chapter.

16 (2) Rescind the issuance of a rebate to the applicant (or to the  
17 applicant's successor) under this chapter.

18 (3) Recapture all or a part of the rebate issued to the  
19 applicant (or to the applicant's successor) under this chapter.

20 Sec. 13. This chapter expires January 1, 2026.

21 SECTION 2. An emergency is declared for this act.

