



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

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<b>Drafting Number:</b>	LLS 18-0322	<b>Date:</b>	July 17, 2018
<b>Prime Sponsors:</b>	Sen. Todd; Smallwood Rep. Kraft-Tharp; Leonard	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** ISSUANCE OF PERFORMANCE-BASED INCENTIVES FOR FILM

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>potential</i> )	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>potential</i> )	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes adjustments to the requirements to receive a performance-based incentive for film production in Colorado. It increases workload beginning in the current FY 2017-18 and may increase revenue and expenditures in future fiscal years.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the enacted bill, which was recommended by the Legislative Audit Committee.

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## Summary of Legislation

This bill adds new requirements related to the issuance of performance-based incentives for film production in Colorado.

**Eligibility for performance-based incentives.** The bill requires a production company that seeks incentives to have been engaged in other projects within Colorado for at least 12 months prior to applying for an incentive. If a business is created for the sole purpose of conducting production activities in Colorado, the manager of the business must have Colorado residency for at least 12 consecutive months prior to applying.

**Contracts and overpayments.** The Office of Economic Development and International Trade (OEDIT) may not issue an incentive unless the production company and OEDIT have entered into a contract in accordance with the procurement code. If a performance-based incentive is issued in error for any reason, OEDIT is required to engage the Attorney General's Office to recover the overpayment.

**Program requirements.** Production companies must provide, through a certified public accountant (CPA), proof of qualified local expenditures and that the company hired the necessary workforce. The OEDIT is required to review documentation provided by the production company's CPA and to publish a list of CPAs that can be used by production companies.

The OEDIT must also meet with the Colorado Economic Development Commission annually for purposes of reviewing the requirements of the incentive program.

## **Background**

**Program.** In 2012, House Bill 12-1286 moved the Colorado Office of Film, Television, and Media to OEDIT and implemented new program requirements to an existing film incentive program. The current program is a cash rebate, providing up to a 20 percent rebate to eligible productions (within available appropriations). To be eligible, a Colorado production company must have qualified local expenditures of at least \$100,000 and an out-of-state production company must have at least \$1 million in qualified local expenditures, except for television commercials or video games, which have a requirement of \$250,000 in qualified local expenditures. Productions must hire a workforce comprised of at least 50 percent Colorado residents. All productions considering a film incentive rebate must be approved by the Colorado Economic Development Commission, be in good standing with the Colorado Secretary of State, and have a signed contract prior to beginning principal photography.

The OEDIT has recently hired a new analyst position and the workload to review additional CPA reports, publish a list of eligible CPAs, and to meet with the Colorado Economic Development Commission for training purposes is included in that position's job description.

**Audit.** In May 2017, the Colorado Office of the State Auditor conducted a performance audit and recommended the changes proposed in this bill. According to the audit report, Colorado issued \$10.6 million in film incentives between fiscal years 2013 through 2016 and funded 31 productions, including 6 commercials, 4 documentaries, 7 feature films, 13 television shows, and 1 video game.

## **State Revenue**

This bill may increase state cash fund revenue if any erroneous incentive payments are issued and recovered. Any recoveries made are credited to the Colorado Office of Film, Television, and Media Operational Account Cash Fund. These monies are exempt from TABOR.

## **State Expenditures**

In the future, the bill may increase costs for the OEDIT and Attorney General's Office to recover any payments issued in error. Any required increase in appropriations to conduct the recovery can be addressed through the annual budget process.

## **Effective Date**

The bill was signed into law by the Governor and took effect on March 15, 2018.

**State and Local Government Contacts**

Economic Development  
Law

Governor  
Revenue

Information Technology  
Secretary Of State