



Legislative Council Staff  
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 23-1027  
Prime Sponsors: Rep. Herod

Date: April 26, 2023  
Bill Status: House Finance  
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Bill Topic: **FILM INCENTIVE TAX CREDIT**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

Beginning in 2024, the bill ends the current performance-based incentive for film production in Colorado. It instead creates a state income tax credit for a film production company that employs a workforce for in-state production activity for income tax years 2024 through 2028. Conditional on the state TABOR outlook, the bill on net, decreases state expenditures and state revenue through FY 2028-29.

Appropriation Summary:

For FY 2023-24, the bill requires an a net appropriation reduction of \$259,742 to the Office of Economic Development and International Trade (OEDIT).

Fiscal Note Status:

The fiscal note reflects the introduced bill. Due to time constraints, this analysis is preliminary and will be updated following further review and any additional information received.

Table 1  
State Fiscal Impacts Under HB 23-1309

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>	General Fund	(\$7.5 million)	(\$15.0 million)
	<b>Total Expenditures</b>	<b>(\$7.5 million)</b>	<b>(\$15.0 million)</b>
<b>Expenditures</b>	General Fund	-	\$115,399
	Cash Funds	(\$282,417)	(\$721,731)
	Centrally Appropriated	\$22,675	\$28,392
	<b>Total Expenditures</b>	<b>(\$259,742)</b>	<b>(\$577,940)</b>
	<b>Total FTE</b>	<b>1.3 FTE</b>	<b>1.6 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget</b>	TABOR Refund	(\$7.5 million)	(\$15.0 million)
	General Fund Reserve	-	\$17,310

## **Summary of Legislation**

The bill repeals the current performance-based incentive rebate program for eligible film, television and production-related expenses beginning on January 1, 2024, and specifies that a taxpayer may not claim both the rebate and the tax credit created in the bill.

For income tax years 2024 through 2028, the bill creates a state income tax credit for a film production company that employs a workforce for in-state production activity made up of at least 50 percent Colorado residents. The credit is equal to:

- 20 percent of the total amount of the production company's qualified local expenditures if the total is at least \$100,000, for a production company that originates production activities in Colorado;
- 20 percent of the total amount of the production company's qualified local expenditures if the total is at least \$250,000, for a production company that produces a television commercial or video game and does not originate production activities in Colorado but employs a workforce made up of at least 50 percent Colorado residents for any in-state production activity; and
- 22 percent of the total amount of the production company's qualified local expenditures that Office of Economic Development and International Trade (OEDIT) determines that the production company filmed in a rural community or marginalized urban center, in addition to meeting the other criteria in the bill.

The availability of the credit is conditional on the state TABOR situation. In years where the state revenue subject to TABOR exceeds the Referendum C cap by at least \$50 million, OEDIT may issue up to \$15 million in state tax credits. In years where revenue subject to TABOR does not exceed the Referendum C cap, or exceeds the cap by less than \$50 million, the availability of the credit is determined by the General Assembly.

## **Assumptions**

Based on the March 2023 Legislative Council Staff economic and revenue forecast, state revenue subject to TABOR is expected to exceed the Referendum C cap by more than \$50 million in both FY 2023-24 and FY 2024-25. The fiscal note assumes the credit will be available for tax years 2024 and 2025 and the full amount allowed each year will be certified by OEDIT.

## **State Revenue**

Conditional upon the TABOR outlook, the bill is expected to reduce General Fund revenue by \$7.5million in FY 2023-24, and by \$15.0 million in FY 2024-25. Future reductions are based on the future TABOR outlook. The bill reduces individual and corporate income tax revenue, which is subject to TABOR.

**State Expenditures**

Conditional upon the TABOR outlook, the bill decreases state expenditures, on net, by \$259,742 in FY 2023-24, \$577,940 in FY 2024-25 and by similar amounts in later years. The net reduction includes a decrease in costs in OEDIT, paid from the Office of Film, Media, and TV Cash Fund, on an ongoing basis, and an increase in expenditures in the Department of Revenue, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under HB 23-1309**

	FY 2023-24	FY 2024-25
<b>Department of Revenue (DOR)</b>		
Personal Services	-	\$37,970
GenTax Programming and Testing	-	\$68,110
Data Reporting	-	\$7,392
Document Management and Tax Form Changes	-	\$1,927
Centrally Appropriated Costs <sup>1</sup>	-	\$10,167
FTE – Personal Services	-	0.6 FTE
<b>DOR Subtotal</b>	<b>-</b>	<b>\$125,566</b>
<b>Office of Economic Development and International Trade</b>		
Personal Services	\$89,158	\$76,919
Operating Expenses	\$1,755	\$1,350
Capital Outlay Costs	\$6,670	-
Salesforce Software License	\$20,000	-
Incentive Rebates	(\$400,000)	(\$800,000)
Centrally Appropriated Costs <sup>1</sup>	\$22,675	\$18,225
FTE – Personal Services	1.3 FTE	1.0 FTE
<b>OEDIT Subtotal</b>	<b>(\$259,742)</b>	<b>(\$703,506)</b>
<b>Total</b>	<b>(\$259,742)</b>	<b>(\$577,940)</b>
<b>Total FTE</b>	<b>1.3 FTE</b>	<b>1.6 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation

**Office of Economic Development and Trade (OEDIT).** Beginning in FY 2023-24, expenditures increase in OEDIT to administer the income tax credit and decrease for the office to no longer provide incentive rebates. This estimate will be updated as more information becomes available.

- **Personal services.** The fiscal note assumes that the current staffing levels (4.5 FTE) will continue with the change from an incentive program to a tax credit program. In addition, OEDIT will require 1.3 FTE in FY 2023-24. Of this, 0.3 FTE is one time cost for a staff administrator. The remaining 1.0 FTE is for a program manager to administer the program and verify the taxpayer meets the requirements in the bill.
- **Salesforce License.** OEDIT utilizes the management software Salesforce for interaction with customers, customer relationship, analytics, and application development. It is estimated a one cost for the license in FY 2023-24 is approximately \$20,000.
- **Incentive rebates.** The fiscal note assumes that of the current \$1.2 million appropriation for the incentive program, approximately \$800,000 is used for rebates. Under the bill, these incentives will no longer be awarded and businesses will instead receive the tax credit. As a result, the bill is estimated to reduce state expenditures for incentives by \$400,000 in FY 2023-24 (half-year impact) and by \$800,000 in subsequent years.

**Department of Revenue.** Beginning in FY 2024-25, expenditures will increase in DOR to administer the income tax credit and income tax addition in the bill.

- **Staffing.** Based on the number of tax credits that are expected, DOR requires 0.6 FTE, beginning in FY 2024-25.
- **Computer programming and testing.** For FY 2024-25 only, the bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of \$231.75 per hour. Approximately 200 hours of computer programming will be required to implement this bill, totaling \$46,350. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional \$59,730 in expenditures by the department. A portion of this amount is included on the personal services line in Table 2.
- **Data reporting.** Beginning in FY 2024-25, the Office of Research and Analysis (ORA) within DOR will have costs of \$7,392 to collect and report data on the new tax credit. The costs are ongoing through FY 2028-29.
- **Document management and tax form changes.** In FY 2024-25, the bill requires changes to tax forms and computer testing for paper filings at a cost of \$1,972. Expenditure for form changes occur in the Department of Personnel and Administration using reappropriated funds.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above for FY 2023-24 and FY 2024-25. This estimate assumes the March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase the amount of General Fund available for other purposes.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2023-24, this bill requires a net appropriation decrease of \$282,417 from the Office of Film, TV, and Media Cash Fund to the Office of Economic Development and International Trade, and an additional 1.3 FTE.

## State and Local Government Contacts

Information Technology  
Revenue

OEDIT

Personnel