



January 29, 2020

SENATE BILL No. 262

DIGEST OF SB 262 (Updated January 28, 2020 10:06 am - DI 125)

Citations Affected: IC 5-33; noncode.

Synopsis: Film and media production incentives. Provides the following effective July 1, 2021: (1) Authorizes the Indiana destination development corporation (corporation) to employ a film commissioner. (2) Authorizes the corporation to establish a film and media production incentive program. Requires the corporation, in coordination with the office of management and budget, to provide a report to the interim study committee on fiscal policy concerning: (1) film and media production incentives offered in other states; and (2) a recommendation on the type of incentive that should be offered in Indiana.

Effective: Upon passage; July 1, 2021.

**Busch, Holdman, Perfect,
Ruckelshaus, Young M, Buchanan,
Zay, Niezgodski**

January 9, 2020, read first time and referred to Committee on Tax and Fiscal Policy.
January 28, 2020, amended, reported favorably — Do Pass.

SB 262—LS 7107/DI 125



January 29, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 262

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

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

1 SECTION 1. IC 5-33-5-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2021]: **Sec. 14. (a) The corporation may employ a film
4 commissioner and other necessary staff to perform duties as
5 directed that relate to a film and media production incentive
6 program.**

7 SECTION 2. IC 5-33-7 IS ADDED TO THE INDIANA CODE AS
8 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2021]:

10 **Chapter 7. Indiana Film and Media Production Incentive
11 Program**

12 **Sec. 1. As used in this chapter, "corporation" refers to the
13 Indiana destination development corporation established by
14 IC 5-33-3-1.**

15 **Sec. 2. As used in this chapter, "Film Indiana" refers to the
16 program administered by the corporation that provides support
17 for the film, television, commercial, and news media industries.**

SB 262—LS 7107/DI 125



1 **Sec. 3.** As used in this chapter, "program" refers to an Indiana
2 film and media production incentive program established under
3 section 8 of this chapter.

4 **Sec. 4.** As used in this chapter, "qualified applicant" means a
5 person, corporation, partnership, limited liability partnership,
6 limited liability company, or other entity that is engaged in the
7 business of making a qualified media production in Indiana.

8 **Sec. 5.** As used in this chapter, "qualified Indiana resident"
9 means an individual who:

10 (1) maintains a dwelling in Indiana as the individual's
11 principal place of residence and is present in Indiana for not
12 less than six (6) months during the year; and

13 (2) has signed a declaration of residency that certifies that the
14 individual has maintained a dwelling in Indiana as the
15 individual's principal place of residence for not less than six
16 (6) months immediately preceding the production start date
17 for the applicable qualified media production.

18 **Sec. 6. (a)** As used in this chapter, "qualified media production"
19 refers to the following for which at least fifty percent (50%) of the
20 total incurred expenses for production are qualified production
21 expenditures:

22 (1) A feature length film, including an independent or studio
23 production, or a documentary.

24 (2) A television episodic series, program, or feature.

25 (3) A digital media production that is intended for reasonable
26 commercial exploitation.

27 (4) A music video, video game, or game show.

28 (5) An advertising message, except for political advertising,
29 that is intended to be distributed in any media form.

30 (6) An educational media production, provided that the
31 educational media production is not produced primarily for
32 industrial or corporate purposes.

33 (7) Animation or music recorded in Indiana fixed on any
34 delivery system, including film, videotape, computer disc,
35 laser disc, or any digital format.

36 **(b)** The term does not include the following:

37 (1) Television coverage of:

38 (A) athletic events;

39 (B) news; or

40 (C) current events.

41 (2) Programs that include weather reports or financial reports
42 as a material portion of the program.



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



- 1 (12) Receiving costs when a shipment is received at a location
 2 in Indiana.
 3 (13) Any other production expenditure for which taxes are
 4 assessed or imposed by the state.
 5 (14) The total sum expended on wages, salaries, and benefits.
 6 Expenses under this subdivision do not include expenses
 7 described in subdivision (15) or (17).
 8 (15) Expenditures for skilled workforce training of crew
 9 members who are qualified Indiana residents.
 10 (16) Financing fees, if the entity charging the fees is a financial
 11 institution (as defined in IC 5-13-4-10) in Indiana.
 12 (17) The payment of student internships, if the student who
 13 receives the internship payment is enrolled at a state
 14 educational institution (as defined in IC 21-7-13-32).
 15 (18) Expenditures for acquisition of rights to a story or story
 16 material and scripts.
 17 (19) Acquisition costs and expenditures for:
 18 (A) vehicles that are to be directly used as part of the
 19 qualified media production; and
 20 (B) the leasing or rental of vehicles.
 21 (b) The term does not include the following expenses or
 22 expenditures:
 23 (1) Expenditures for tangible personal property acquired in
 24 a transaction outside Indiana, even if the property is subject
 25 to the use tax under IC 6-2.5-3.
 26 (2) The payment of penalties or fines.
 27 (3) The performance of services or the conveyance of property
 28 in an in kind exchange.
 29 (4) Any production expenditures for tangible personal
 30 property or services that are acquired from a business (or an
 31 agent of a business) that does not maintain a physical
 32 presence in Indiana.
 33 (5) Expenditures for cellular telephone service.
 34 (6) Marketing and advertising costs.
 35 (7) Any expenses that are incurred after the qualified media
 36 production becomes commercially available to the general
 37 public.
 38 (8) Airfare travel expenditures for private or chartered
 39 aircraft.
 40 (9) Acquisition costs of vehicles that are not to be directly
 41 used as part of the qualified media production.
 42 Sec. 8. (a) The corporation may establish an Indiana film and



1 media production incentive program. Beginning July 1, 2021, and
 2 subject to subsection (c), a qualified applicant that proposes to
 3 incur or make qualified production expenditures totaling at least:

4 (1) in the case of a qualified media production described in
 5 section 6(a)(1) through section 6(a)(6) of this chapter, five
 6 hundred thousand dollars (\$500,000); or

7 (2) in the case of a qualified media production described in
 8 section 6(a)(7) of this chapter, one hundred thousand dollars
 9 (\$100,000);

10 in Indiana may apply to the corporation for approval of an
 11 incentive under the program from the corporation under this
 12 chapter. An application must be submitted before incurring or
 13 making the qualified production expenditures.

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

15 (c) In the case of a qualified media production described in
 16 section 6(a)(1) of this chapter, a qualified applicant must provide
 17 a confirmation that the qualified applicant is seeking a valid
 18 completion bond for the project.

19 Sec. 9. (a) The corporation shall review an application
 20 submitted under section 8 of this chapter not later than thirty (30)
 21 days after the application is received.

22 (b) An applicant for an incentive under the program shall pay
 23 an application fee in an amount determined by the corporation at
 24 the time an application is submitted. Application fees must be used
 25 by the corporation toward paying the compensation of the film
 26 commissioner and any necessary staff employed by the corporation
 27 under IC 5-33-5-14.

28 (c) After receiving and reviewing an application, the
 29 corporation may enter into an agreement with the applicant for an
 30 incentive under the program under this chapter if the corporation
 31 determines that:

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

33 (A) is economically viable; and

34 (B) will increase economic growth and job creation in
 35 Indiana; and

36 (2) the applicant's proposed qualified media production and
 37 qualified production expenditures otherwise satisfy the
 38 requirements of this chapter.

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

42 (e) If the corporation and an applicant enter into an agreement



1 under this section, the agreement must contain at least the
2 following provisions:

3 (1) The following conditions that the applicant must satisfy
4 before the applicant may claim an incentive under the
5 program:

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

9 (B) In the case of a qualified media production for which
10 an application for an incentive under the program is
11 submitted before January 1, 2022, production must
12 commence not later than one hundred twenty (120) days
13 after the applicant and the corporation enter into an
14 agreement.

15 (C) In the case of a qualified media production for which
16 an application for an incentive under the program is
17 submitted after December 31, 2021, production must
18 commence not later than ninety (90) days after the
19 applicant and the corporation enter into an agreement.

20 (D) In the case of a qualified media production described
21 in section 6(a)(1) of this chapter, the applicant has obtained
22 a completion bond for the project.

23 (2) The following obligations of the applicant:

24 (A) The applicant must agree to comply with applicable
25 state and federal laws during the course of the production,
26 including:

27 (i) the federal Fair Labor Standards Act of 1938, as
28 amended (29 U.S.C. 201 et seq.);

29 (ii) the state minimum wage law under IC 22-2-2;

30 (iii) worker's compensation system requirements under
31 IC 22-3-5 and IC 22-3-7; and

32 (iv) unemployment compensation system requirements
33 under IC 22-4-1 through IC 22-4-39.5.

34 (B) The applicant must agree to place in the credits of the
35 qualified media production (if the production contains
36 credits):

37 (i) a statement indicating "filmed in Indiana"; and

38 (ii) the logo of Film Indiana.

39 (C) The applicant must agree to submit to Film Indiana a
40 viewable copy of the final qualified media production not
41 later than ten (10) days after the production is complete
42 and is commercially available to the general public.



- 1 **(D) The applicant must agree to provide Film Indiana with**
 2 **specified promotional material for the qualified media**
 3 **production (such as photos, trailer scenes, and poster art).**
 4 **In addition, the applicant must agree to convey to Film**
 5 **Indiana a copyright license that permits Film Indiana to**
 6 **use the promotional material for archival purposes,**
 7 **government relations purposes, and marketing purposes.**
 8 **(E) The applicant must agree to the review and audit of the**
 9 **qualified production expenditures by the film**
 10 **commissioner. The film commissioner may determine**
 11 **whether the qualified production expenditures were**
 12 **reasonable.**
- 13 **(3) The following consents to civil process and procedures in**
 14 **Indiana:**
- 15 **(A) The applicant must consent that the applicant (and any**
 16 **successor in interest in any part of the applicant) will be**
 17 **subject to the jurisdiction of Indiana courts.**
- 18 **(B) The applicant must consent that service of process in**
 19 **accordance with the Indiana Rules of Trial Procedure is**
 20 **proper service and subjects the applicant (and any**
 21 **successor in interest in any part of the applicant) to the**
 22 **jurisdiction of Indiana courts.**
- 23 **(C) The applicant must consent that any civil action**
 24 **related to the provisions of this chapter in which the**
 25 **applicant (or any successor in interest in any part of the**
 26 **applicant) is a party will be heard in an Indiana court.**
- 27 **(f) Not later than ten (10) days after the corporation and an**
 28 **applicant enter into an agreement under this section, the applicant**
 29 **shall pay a final administrative review fee to the corporation in an**
 30 **amount determined by the corporation. Final administrative**
 31 **review fees must be used by the corporation toward paying the**
 32 **compensation of the film commissioner and any necessary staff**
 33 **employed by the corporation under IC 5-33-5-14.**
- 34 **Sec. 10. Incentives under the program are subject to**
 35 **appropriations to the program by the general assembly. If funds**
 36 **have not been appropriated for the program by the general**
 37 **assembly, the corporation shall refund an applicant's application**
 38 **fees and final administrative review fees.**
- 39 **Sec. 11. (a) A qualified applicant that has entered into an**
 40 **agreement with the corporation under section 9 of this chapter**
 41 **may file a claim for an incentive under the program with the**
 42 **corporation as set forth under this section.**



1 (b) A qualified applicant shall provide the corporation with any
 2 information necessary, including any information considered
 3 necessary by the film commissioner, to determine the qualified
 4 applicant's compliance with the terms of the qualified applicant's
 5 agreement with the corporation and the incentive under the
 6 program to which the qualified applicant is entitled under this
 7 chapter.

8 (c) A qualified applicant must also submit a digital copy of the
 9 completed qualified media production with the qualified
 10 applicant's claim for an incentive under this section.

11 (d) An incentive under the program may not be issued by the
 12 corporation under this section after December 31, 2027.

13 (e) The corporation may adopt guidelines and prescribe forms
 14 necessary to implement this section.

15 **Sec. 12. (a)** A qualified applicant may assign the qualified
 16 applicant's right to receive an incentive under the program to
 17 which the qualified applicant is entitled under this chapter.

18 (b) A right to receive an incentive under the program that is
 19 assigned under this section remains subject to the qualified
 20 applicant's agreement with the corporation under section 9 of this
 21 chapter and the provisions of this chapter.

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

24 (d) If the right to receive an incentive under the program is
 25 assigned under this section, the qualified applicant must report the
 26 assignment to the corporation and provide the corporation with a
 27 copy of the written assignment not later than ten (10) days after the
 28 assignment is made.

29 **Sec. 13.** If an applicant (or any successor in interest in any part
 30 of the applicant) fails to satisfy any condition of this chapter or any
 31 condition or obligation in an agreement under section 9 of this
 32 chapter, or if the conditions in section 10 of this chapter are not
 33 satisfied, the corporation may take any of the following actions:

34 (1) Reject all or part of the applicant's (or the applicant's
 35 successor's) claim for an incentive under this chapter.

36 (2) Rescind the issuance of an incentive under the program to
 37 the applicant (or to the applicant's successor) under this
 38 chapter.

39 (3) Recapture all or a part of the incentive under the program
 40 issued to the applicant (or to the applicant's successor) under
 41 this chapter.

42 **Sec. 14.** This chapter expires January 1, 2029.



1 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Before October
2 1, 2020, and subject to subsection (b), the Indiana destination
3 development corporation, in coordination with the office of
4 management and budget, shall prepare a detailed report
5 concerning film and media production incentives and provide the
6 report to the interim study committee on fiscal policy established
7 by IC 2-5-1.3-4. The report must be in an electronic format under
8 IC 5-14-6.

9 (b) The report required under subsection (a) must include at
10 least the following information:

11 (1) Information concerning film and media production
12 incentives offered in all other states.

13 (2) Information concerning the effectiveness of film and media
14 production incentives offered in all other states.

15 (3) A recommendation on the type of incentive Indiana should
16 offer in order to be competitive with other states, including:

17 (A) the amount of incentive that should be offered;

18 (B) the types of productions, including film and media, that
19 should be incentivized;

20 (C) the types of production expenditures that should be
21 considered qualified for purposes of an incentive;

22 (D) the minimum amount of expenditures that should be
23 required in order to be eligible for an incentive; and

24 (E) the maximum amount of incentives that should be
25 offered per state fiscal year.

26 (c) This SECTION expires July 1, 2023.

27 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "2020" and insert "2021".

Page 1, line 3, delete "shall" and insert "**may**".

Page 1, line 4, delete "to supervise, direct, coordinate, and administer the" and insert "**and other necessary staff to perform duties as directed that relate to a film and media production incentive program.**".

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 7.

Page 2, line 10, delete "2020]:" and insert "2021]:".

Page 2, line 11, delete "Expenditure" and insert "**Incentive Program**".

Page 2, delete line 12.

Page 2, between lines 18 and 19, begin a new paragraph and insert: "**Sec. 3. As used in this chapter, "program" refers to an Indiana film and media production incentive program established under section 8 of this chapter.**".

Page 2, line 19, delete "3." and insert "4.".

Page 2, line 23, delete "4." and insert "5.".

Page 2, line 33, delete "5." and insert "6.".

Page 3, line 28, delete "6." and insert "7.".

Page 5, line 15, delete "7. (a) Beginning January" and insert "**8. (a) The corporation may establish an Indiana film and media production incentive program. Beginning July**".

Page 5, line 19, delete "5(a)(1) through section 5(a)(6)" and insert "**6(a)(1) through section 6(a)(6)**".

Page 5, line 22, delete "5(a)(7)" and insert "**6(a)(7)**".

Page 5, line 24, delete "a rebate" and insert "**an incentive under the program**".

Page 5, line 30, delete "5(a)(1)" and insert "**6(a)(1)**".

Page 5, delete lines 33 through 39.

Page 5, line 41, delete "7" and insert "8".

Page 6, line 1, delete "a rebate" and insert "**an incentive under the program**".

Page 6, line 4, after "any" insert "**necessary staff employed by the corporation under IC 5-33-5-14.**".

Page 6, delete lines 5 through 6.



Page 6, line 8, delete "a" and insert "**an incentive under the program**".

Page 6, line 9, delete "rebate".

Page 6, delete lines 23 through 38.

Page 6, line 39, delete "(2)" and insert "(1)".

Page 6, line 40, delete "the rebate:" and insert "**an incentive under the program:**".

Page 7, line 3, delete "rebate" and insert "**an incentive under the program**".

Page 7, line 8, delete "rebate" and insert "**an incentive under the program**".

Page 7, line 13, delete "5(a)(1)" and insert "**6(a)(1)**".

Page 7, line 15, delete "(3)" and insert "(2)".

Page 8, line 5, delete "(4)" and insert "(3)".

Page 8, line 24, delete "individuals" and insert "**necessary staff employed by the corporation under IC 5-33-5-14.**".

Page 8, delete lines 25 through 26.

Page 8, line 27, delete "(a) A rebate:" and insert "**Incentives under the program are subject to appropriations to the program by the general assembly. If funds have not been appropriated for the program by the general assembly, the corporation shall refund an applicant's application fees and final administrative review fees.**".

Page 8, delete lines 28 through 36.

Page 8, line 39, delete "a rebate" and insert "**an incentive under the program**".

Page 9, line 3, delete "amount of the rebate" and insert "**incentive under the program**".

Page 9, line 7, delete "a rebate" and insert "**an incentive**".

Page 9, line 8, delete "A rebate" and insert "**An incentive under the program**".

Page 9, line 13, delete "a rebate" and insert "**an incentive under the program**".

Page 9, line 15, delete "a rebate" and insert "**an incentive under the program**".

Page 9, line 21, delete "a rebate" and insert "**an incentive under the program**".

Page 9, line 32, delete "a rebate" and insert "**an incentive**".

Page 9, line 33, delete "a rebate" and insert "**an incentive under the program**".

Page 9, line 35, delete "rebate" and insert "**incentive under the program**".

Page 9, delete lines 37 through 39.



Page 9, line 40, delete "15." and insert "14."

Page 9, after line 40, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Before October 1, 2020, and subject to subsection (b), the Indiana destination development corporation, in coordination with the office of management and budget, shall prepare a detailed report concerning film and media production incentives and provide the report to the interim study committee on fiscal policy established by IC 2-5-1.3-4. The report must be in an electronic format under IC 5-14-6.

(b) The report required under subsection (a) must include at least the following information:

(1) Information concerning film and media production incentives offered in all other states.

(2) Information concerning the effectiveness of film and media production incentives offered in all other states.

(3) A recommendation on the type of incentive Indiana should offer in order to be competitive with other states, including:

(A) the amount of incentive that should be offered;

(B) the types of productions, including film and media, that should be incentivized;

(C) the types of production expenditures that should be considered qualified for purposes of an incentive;

(D) the minimum amount of expenditures that should be required in order to be eligible for an incentive; and

(E) the maximum amount of incentives that should be offered per state fiscal year.

(c) This SECTION expires July 1, 2023.

SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 262 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

