HB09-1010

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL REVISED FISCAL IMPACT

(replaces fiscal note dated February 3, 2009)

Drafting Number:	LLS 09-0461	**Date:**	February 26, 2009
Prime Sponsor(s):	Rep. Massey; McGihon Sen. Gibbs; Spence	**Bill Status:**	House Appropriations
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: CONCERNING THE PROMOTION OF COLORADO AS A LOCATION FOR FILM PRODUCTION ACTIVITIES.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010	FY 2010-2011
State Revenue			
General Fund	up to ($5,000,000)	up to ($10,000,000)	up to ($10,000,000)
Cash Funds			
Colorado Office of Film, Television, and Media Operational Account Cash Fund		Gifts, Grants, and Donations	Gifts, Grants, and Donations
State Transfers or Diversions			
Transfer from the Film Incentives Cash Fund to the Colorado Office of Film, Television, and Media Operational Account Cash Fund*		(Fund Balance Transfer)	
Diversion from the General Fund to the Colorado Office of Film, Television, and Media Operational Account Cash Fund**		See the State Transfers or Diversions section	
State Expenditures			
General Fund***		$55,852	
Cash Funds			
Colorado Office of Film, Television, and Media Operational Account Cash Fund		580,008	540,008
FTE Position Change		6.0 FTE	6.0 FTE
Effective Date: Upon signature of the Governor.			
Appropriation Summary for FY 2009-2010: See the State Appropriations section.			
Local Government Impact: See the Local Government Impact section.			

* *The bill transfers the fund balance of the Film Incentives Cash Fund as of July 1, 2009 to the Colorado Office of Film, Television, and Media Operational Account Cash Fund. The year-end balance has not been estimated.*

** *See the State Transfers and Diversions section for an explanation of the bill's elimination of the current law diversion of limited gaming fund moneys to the Film Incentives Cash Fund, and the alternative diversion of moneys to the Colorado Office of Film, Television, and Media Operational Account Cash Fund, as authorized in the bill.*

*** *This amount may be funded by line item in the FY 2009-10 Long Bill for programming costs in the Department of Revenue for 2009 legislation.*

This fiscal note has been revised to reflect amendments adopted by the House Finance Committee to make the tax credit refundable and to make the tax credit equal to up to 10 percent of a production company's total qualified expenditures.

Summary of Legislation

HB09-1010, as amended in the House Finance Committee, creates the Colorado Office of Film, Television, and Media (office) within the Colorado Office of Economic Development in the Governor's Office. Duties include marketing Colorado as a destination for making movie films and other related activities; coordinating efforts among production companies and government agencies; conducting educational seminars; administering the Colorado film production tax credit; and issuing income tax credit certificates. No later than January 30, 2010, and each January 30 thereafter through 2015, the office must report to the Finance Committees of the General Assembly regarding all credit certificates issued.

The Colorado film production tax credit is established as a refundable tax credit for income tax years commencing on or after January 1, 2009, but prior to January 1, 2014. Before principal photography begins on a film in Colorado, applications for the credit will be submitted to the office for review and conditional approval. The credit shall be an amount determined by the office, subject to the following guidelines:

- the credit shall be up to 10 percent of a production company's total qualified expenditures. Qualified expenditures include payments made by a production company operating in Colorado to a business in Colorado in connection with a film produced in the state, plus payroll expenditures that exceed $250,000. Expenditures in excess of $3 million per employee or contractor are excluded ; and
- the aggregate sum of credits annually approved by the office, including credits carried forward, shall not exceed $10 million in any income tax year.

The bill creates the Colorado Office of Film, Television, and Media Operational Account Cash Fund (COFTMOA Cash Fund) in the State Treasury. The fund is to consist of moneys appropriated by the General Assembly; gifts, grants, and donations from private or public sources; and a transfer of the fund balance of the Film Incentives Cash Fund as of July 1, 2009. For FY 2009-10 and each fiscal year thereafter, the bill diverts $600,000 (adjusted for inflation) of Limited Gaming Fund moneys that would otherwise be transferred to the General Fund to the COFTMOA Cash Fund. At the same time, the diversion provided by current law of gaming moneys to the Film Incentives Cash Fund is eliminated.

State Revenue

For income tax years commencing on or after January 1, 2009, but prior to January 1, 2014, the bill provides for up to $10 million per year in refundable income tax credits to production companies based on qualified expenditures. Since the tax credit is effective January 1, 2009, the credit will **reduce General Fund revenue by up to $5 million in the current fiscal year, FY 2008-09** (for one-half year on an accrual accounting basis), **and by up to $10 million in FY 2009-10, and each year thereafter through FY 2012-13**. Since the credit is only valid through the end of 2013, the General Fund revenue reduction in FY 2013-14 will not be more than $5 million for the remaining one-half fiscal year.

The state income tax credit will provide an additional incentive for film companies to conduct business in the state. However, since the degree to which jobs may be created expressly due to the bill is unknown, the fiscal impact stated above does not incorporate increased revenue from potential job creation or production activity. To the extent that the tax credit is the sole determining reason that film production occurs in the state, sales and income tax revenue from those jobs would serve to partially offset the estimated loss in state revenue. An estimate of indirect state revenue and the need for additional state services for businesses and the families of employees whose jobs are created as a result of the tax credit is beyond the scope of the fiscal note.

State Transfers and Diversions

Background. Based on the December 2008 Legislative Council Staff revenue forecast, revenue will be insufficient to increase General Fund appropriations by the 6 percent limit during FY 2008-09 and FY 2009-10. As a result, funding for certain programs, which is triggered only when the 6 percent limit is reached, will not be available. These programs include film incentives, new jobs incentives, tourism promotion, and funding for the State Council on the Arts. They would have received a combined total of $26.6 million in gaming revenue at the end of FY 2008-09. Of this amount, the Film Incentives Cash Fund would have received $654,000 on June 30, 2009. These moneys were to be used in the current Colorado Film Incentive Program for a 10 percent cash rebate on certain film production costs. It should be noted that a portion of federal moneys received by Colorado through the federal stimulus package may help "prop up" the General Fund for FY 2008-09 and FY 2009-10 to potentially allow for a full or partial funding of these incentive programs.

HB09-1010 Impact. Beginning with FY 2009-10 and each fiscal year thereafter, the bill replaces the current law diversion to the Film Incentives Cash Fund with a similar diversion to the COFTMOA Cash Fund. Assuming that the 6 percent appropriations growth limit were to have been reached, the bill would have diverted $600,000 to the COFTMOA Cash Fund in FY 2009-10. This amount is to be adjusted annually by the percentage change in the Denver Metropolitan Area Consumer Price Index. This diversion will not occur unless the 6 percent appropriations limit is fully funded.

HB09-1010 also transfers any moneys remaining in the Film Incentives Cash Fund on July 1, 2009, to the COFTMOA Cash Fund. An estimate of the year-end balance (June 30, 2009) in the Film Incentives Cash Fund is not known at this time, partly because the year-end diversion of gaming revenue to the fund may not happen given the current General Fund revenue situation.

State Expenditures

Based on the December 2008 Legislative Council Staff revenue forecast, there is insufficient revenue in the General Fund to allow General Fund appropriations to increase by the maximum allowable growth rate of 6 percent in FY 2008-09 or FY 2009-10. By reducing General Fund revenue, this bill will reduce the amount of money available for General Fund appropriations in FY 2008-09 by $5 million and in FY 2009-10 by $10 million.

Governor's Office. As shown in Table 1, the Governor's Office will require **$580,008 and 6.0 FTE in FY 2009-10, and $540,008 and 6.0 FTE in FY 2010-11** to fulfill the responsibilities of the Colorado Office of Film, Television, and Media.

Table1. Expenditures Under HB09-1010

Cost Components	**FY 2009-10**	**FY 2010-11**
Personal Services	$349,308	$349,308
FTE	6.0 FTE	6.0 FTE
Operating Expenses	47,200	47,200
Marketing and Education	93,500	93,500
Travel and Trade Shows	50,000	50,000
Capital Outlay	40,000	0
TOTAL	**$580,008**	**$540,008**

The Colorado Office of Film, Television, and Media will market Colorado as a destination for film making, provide assistance to production companies, provide permitting and coordinating assistance to production companies and state and local government agencies, issue tax credit certificates, administer the tax credits, and offer educational seminars to promote film in Colorado. Based on these duties, the office requires a total of 6.0 FTE, including a division director, assistant director, locations coordinator, education/marketing coordinator, administrative assistant, film incentive fund administrator, and an accounting technician. Many of these individuals currently work for the Colorado Film Commission to encourage film companies to operate in Colorado. This bill makes them state employees. As the marketing agent of the state, the office will be involved in trade shows, film festival sponsorships, production of promotional videos and brochures, and maintenance of a website that promotes Colorado as a destination for films, television shows, commercials, still photography, music videos, and emerging mass media projects.

Department of Revenue. The Department of Revenue requires **$55,852 General Fund in FY 2009-10** to add a new line and new accounting item on several income tax forms, as well as changes to the CITA/GenTax System. This will require 616 hours of computer programming (Information Technology Professional III at $38.63 per hour), plus 160 hours of contracted computer programming (at $200 per hour). Finally, contracted services for $56 in data entry requirements will be necessary. These costs may be funded by line item in the FY 2009-10 Long Bill for programming costs in the Department of Revenue for 2009 legislation.

Expenditures Not Included

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. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB09-1010*

Cost Components - Governor's Office	FY 2009-10	FY 2010-11
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$41,076	$41,076
Supplemental Employee Retirement Payments	10,173	12,990
Leased Space	29,730	29,730
TOTAL	**$80,979**	**$83,796**

**More information is available at: http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf*

Local Government Impact

To the extent that new film activity is conducted in the state, local governments will benefit from increased sales tax revenue on taxable purchases made by the industry and their employees.

State Appropriations

The Governor's Office requires a cash funds appropriation of $580,008 and 6.0 FTE for FY 2009-10 from the Colorado Office of Film, Television, and Media Operational Account Cash Fund to implement the bill. Based on current state revenue estimates, it appears unlikely that the COFTMOA Cash Fund will have sufficient revenue to cover the required appropriation from the sources identified in the bill.

Departments Contacted

Revenue   Law   Governor's Office   State Treasurer