

**Department of Legislative Services**  
 Maryland General Assembly  
 2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 360 (Senator Guzzone, *et al.*)  
 Budget and Taxation

**Income Tax - Theatrical Production Tax Credit**

This bill creates a tax credit against the State income tax for 25% of the qualified theatrical production costs incurred in the State. The Department Commerce (Commerce) is required to administer the credit and may award a maximum of \$10 million in credits in each fiscal year. Commerce and the Comptroller must jointly adopt regulations implementing the tax credit application, approval, and monitoring processes. **The bill takes effect July 1, 2019, and applies to tax years 2019 and beyond.**

**Fiscal Summary**

**State Effect:** General fund revenues decrease by up to \$10.0 million annually beginning in FY 2020 due to credits claimed against the income tax. Administrative costs at the Comptroller’s Office and Commerce may increase by \$164,900 in FY 2020. Future years reflect ongoing operating expenditures.

(\$ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)
GF Expenditure	\$0.2	\$0.1	\$0.1	\$0.1	\$0.1
Net Effect	(\$10.2)	(\$10.1)	(\$10.1)	(\$10.1)	(\$10.1)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local highway user revenues decrease to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** A qualified theatrical production entity that meets specified requirements and is approved by Commerce may receive a tax credit equal to 25% of qualified theatrical production costs incurred in the State. If the amount of the tax credit exceeds the total tax liability in the tax year, the entity can claim a refund in the amount of the excess. Any salary, wages, or other compensation for personal services of an individual who receives more than \$200,000 per week in salary, wages, or other compensation for personal services in connection with any film production activity may not be included in total direct costs. In order to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed \$100,000.

The theatrical production entity must notify Commerce of its intent to seek the tax credit before the production activity begins. A theatrical production entity is also required to submit an application containing specified information, including the project's estimated total budget and the anticipated dates for carrying out the major elements of the theatrical production activity. The Secretary of Commerce may not award in aggregate more than \$2 million for a single theatrical production. Any amount of credits that are not awarded by Commerce in a fiscal year can be awarded in the next fiscal year.

“Theatrical production” is defined as a for-profit live theatrical touring performance that, in its original or adaptive version, is performed in a qualified facility located in the State.

**Current Law:** Theatrical productions do not qualify for a State tax credit. However, the program is similar to the film production activities tax credit as discussed below.

**Background:** The film production activities credit provides a tax credit equal to 25% of qualified film production costs incurred in the State. For a television series, the value of the credit is increased to 27%. Commerce may award a maximum of \$11 million in tax credits in fiscal 2020, \$14 million in fiscal 2021, \$17 million in fiscal 2022, and \$20 million in fiscal 2023 and thereafter.

In addition to proliferation of film production tax credits over the last decade a number of states, including New York, Louisiana, and Rhode Island, have also established tax credits for theatrical productions.

**State Revenues:** Tax credits may be claimed beginning in tax year 2019. As a result, general fund revenues will decrease by \$10.0 million annually beginning in fiscal 2020. This estimate assumes that Commerce awards the maximum authorized amount of credits in each fiscal year and tax credits are claimed against the personal income tax. To the extent tax credits are claimed against the corporate income tax, a portion of tax credits claimed will decrease Transportation Trust Fund and Higher Education Investment Fund revenues.

**State Expenditures:** Administrative costs at the Comptroller’s Office and Commerce may increase by \$164,900 in fiscal 2020 and by \$115,800 in fiscal 2024.

*Commerce*

Commerce requires one program administrator to process and approve the tax credit applications each year. Therefore, general fund expenditures increase by \$109,900 in fiscal 2020. This estimate reflects the cost of hiring the administrator to certify tax credits and perform related tasks beginning July 1, 2019. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$104,390
Other Operating Expenses	<u>5,515</u>
<b>Total FY 2020 Expenditures</b>	<b>\$109,905</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as ongoing operating expenses.

*Comptroller’s Office*

The Comptroller’s Office reports that it will incur a one-time general fund expenditure increase of \$55,000 in fiscal 2020 to add the tax credit to personal income tax forms. This includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

---

**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Commerce; Comptroller’s Office; Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2019  
mm/hlb

---

Analysis by: Robert J. Rehrmann

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510