

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

Senate Bill 452

(Senator Griffith, *et al.*)

Budget and Taxation

Ways and Means

Film Production Activity Income Tax Credit - Alterations and Maryland
 Entertainment Council

This bill alters the film production activity tax credit by (1) expanding eligible film production activities; (2) expanding eligible costs; (3) increasing the amount of eligible costs that qualify; and (4) increasing the maximum amount of credits the Department of Commerce may award each year (from \$12.0 million) to \$15.0 million for fiscal 2024, \$17.5 million for fiscal 2025, and \$20.0 million for fiscal 2026. The bill also establishes the Maryland Entertainment Council to assess Maryland’s existing assets, opportunities, and competitive position with the film, television, and entertainment industry, study specified related topics, and make related recommendations. The bill specifies related legislative intent. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond; provisions related to the council terminate June 30, 2025.**

Fiscal Summary

State Effect: State revenues decrease by \$3.0 million in FY 2024, \$5.5 million in FY 2025, and \$8.0 million in FY 2026. Most of that amount each year is general funds, as shown below. The FY 2024 general fund revenue reduction is assumed in the FY 2024 budget. Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues decrease by the remaining amounts each year. TTF expenditures for local highway user revenue grants decrease by \$0.1 million to \$0.3 million from FY 2024 through 2026. Commerce can staff the council with existing resources, but general fund expenditures increase by up to \$100,000 in both FY 2024 and 2025 for study and evaluation costs. The Comptroller’s Office can handle the bill’s requirements with existing resources.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(\$2.3)	(\$4.2)	(\$6.0)	\$0	\$0
SF Revenue	(\$0.7)	(\$1.3)	(\$2.0)	\$0	\$0
GF Expenditure	\$0.1	\$0.1	\$0	\$0	\$0
SF Expenditure	(\$0.1)	(\$0.2)	(\$0.3)	\$0	\$0
Net Effect	(\$3.0)	(\$5.4)	(\$7.7)	\$0.0	\$0.0

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

Local Effect: Local highway user revenues decrease by \$0.1 million to \$0.3 million annually from FY 2024 through 2026. Expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Film Production Activity Tax Credit Changes

“Film production activity” includes a documentary or a talk, reality, or game show. “Total direct costs” with respect to film production activity includes salaries, wages, or other compensation for writers, directors, or producers.

Generally, the percentage of total direct costs that qualify for a tax credit certificate is increased by three percentage points. For most production types, including a Maryland small or independent film entity, the increase is from 25% to 28%; for a television series, the increase is from 27% to 30%.

The maximum amount of credits Commerce may award in each year is increased (from \$12.0 million) to \$15.0 million for fiscal 2024, \$17.5 million for fiscal 2025, and \$20.0 million for fiscal 2026. In fiscal 2027 and later, Commerce may award up to \$12.0 million in credits annually, consistent with current law.

Maryland Entertainment Council

The Maryland Entertainment Council is established, consisting of specified membership, and staffed by Commerce. A member of the council may not receive compensation as a member of the council but is entitled to reimbursement for travel expenses. The council must:

- assess Maryland’s existing assets, opportunities, and competitive position within the film, television, and entertainment industry;
- study State, local, and private assets that currently support Maryland’s film, television, and entertainment industry, including key infrastructure, existing workforce, workforce pipelines, scenic profile, emerging specialties, and independent creative communities;
- study existing State programs, agencies, offices, grant programs, and commissions across State agencies that support the film, television, and entertainment industry;

- study models, competitive profiles, methods, and legislation that states have utilized to incentivize necessary infrastructure and workforce to support the film, television, and entertainment industry;
- study industry needs, disruptive trends, and emerging technologies within the film, television, and entertainment industry;
- study complementary industries, aligned businesses, and potential corporate, philanthropic, and other partners for the film, television, and entertainment industry; and
- make recommendations on the development of a coordinated, comprehensive strategic plan to position Maryland as an emerging leader in the film, television, and entertainment industry.

By December 1, 2023, the council must submit a preliminary report to the Governor, the Secretary of Commerce, and the General Assembly that includes specified information and recommendations. By September 1, 2024, the council must submit its final report to the Governor, the Secretary of Commerce, and the General Assembly on the matters included in the council's preliminary report plus additional recommendations, including for additional State investment in the film, television, and entertainment industry.

Current Law: A qualified film production entity that meets specified requirements and is approved by Commerce may receive a refundable 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%. The Secretary of Commerce may not award in the aggregate more than \$10 million for a single film production activity. This limitation applies to each season of a television series.

In order to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed \$250,000. A qualified small or independent film entity with estimated total direct costs of at least \$25,000 may receive a refundable income tax credit of up to 25%, with a maximum tax credit amount per project of \$125,000. Commerce must award 10% of all tax credits in each fiscal year to qualified small or independent film entities.

Any salary, wages, or other compensation for personal services of an individual who receives more than \$500,000 in salary, wages, or other compensation for personal services in connection with any film production activity may not be included in total direct costs. Total direct costs do not include any salary, wages, or other compensation for writers, directors, or producers.

The film production entity must notify Commerce of its intent to seek the tax credit before the production activity begins. A film production entity is also required to submit an application containing specified information, including the project's estimated total

budget, employment and wage estimates, and the anticipated dates for carrying out the major elements of the film production activity.

“Film production activity” is defined as the production of a film or video product that is intended for nationwide commercial distribution and includes a feature film, television project, commercial, corporate film, music video, or digital animation project.

The Secretary of Commerce may award a maximum of \$12 million in tax credits each fiscal year. Credits not issued in a fiscal year may be carried forward and issued in subsequent years.

State/Local Fiscal Effect: The bill authorizes Commerce to award an additional \$3.0 million in tax credits in fiscal 2024, an additional \$5.5 million in tax credits in fiscal 2025, and an additional \$8.0 million in tax credits in fiscal 2026. Assuming the maximum credits are awarded under both current law and the bill, State revenues decrease in total by those amounts each year from fiscal 2024 through 2026, as shown in **Exhibit 1**. Most revenue losses each year are general funds. As noted above, the estimated fiscal 2024 general fund revenue reduction is assumed in the fiscal 2024 budget.

Exhibit 1
Projected Effect on State and Local Revenues
Fiscal 2024-2026
(\$ in Millions)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
State Revenues			
General Fund	(\$2.3)	(\$4.2)	(\$6.0)
Higher Education Investment Fund	(0.2)	(0.3)	(0.5)
Transportation Trust Fund	(0.5)	(1.0)	(1.5)
Total	(\$3.0)	(\$5.5)	(\$8.0)
Local Revenues			
Local Highway User Revenues	(\$0.1)	(\$0.2)	(\$0.3)

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

A portion of TTF revenues from the corporate income tax is used to provide capital transportation grants to local governments (local highway user revenues). Thus, local

highway user revenues decrease by \$0.1 million to \$0.3 million annually from fiscal 2024 through 2026; State TTF expenditures decrease correspondingly.

This estimate assumes that all tax credits are claimed against the corporate income tax, consistent with current credits. To the extent tax credits are claimed against the personal income tax, the effect on general fund revenues increases and the effect on TTF/HEIF revenues, and TTF expenditures decreases.

Under the above assumptions, changes to eligibility and credit percentages do not affect the total dollar amount of tax credits awarded each fiscal year, although credits may be reallocated between recipients.

Small Business Effect: Small businesses that provide services to film productions benefit from any film production activities that occur in the State due to the expanded tax credit in fiscal 2024 through 2026. Affected businesses may include hotels, restaurants, caterers, vehicle rental companies, cleaning services, and event production companies, depending on the type of film production. This assumes that at least some additional activity would not occur in absence of the bill; the greater the inducement of activity, the more meaningful the effect on small businesses. Small film production businesses also benefit from the additional funding available under the program. The bill's changes to eligible film production activities may also reallocate funding across different types of projects and affect the related small businesses, particularly in years when enhanced funding is not provided.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

Fiscal Note History:
rh/jrb

First Reader - February 17, 2023
Third Reader - March 23, 2023
Revised - Amendment(s) - March 23, 2023
Enrolled - April 10, 2023
Revised - Amendment(s) - April 10, 2023
Revised - Budget Information - May 4, 2023

Analysis by: Stephen M. Ross

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