

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1074
 Ways and Means

(Delegate D. Barnes, *et al.*)

Budget and Taxation

Income Tax - Automated External Defibrillator Tax Credit

This bill authorizes a nonrefundable credit against the State income tax for the first \$500 of the purchase price of an automated external defibrillator (AED) purchased for use at a restaurant in the State. In general, an individual or a business entity that owns a restaurant in the State may claim up to \$1,500 in credit in a taxable year; any unused amount may not be carried over to any other taxable year. The credit allowed under the bill is applicable for only one AED purchased for use at a restaurant location in the State with annual gross income of at least \$400,000 and may be claimed only once by an individual or business entity for each restaurant location. **The bill takes effect July 1, 2023, and applies to tax years 2023 through 2027. The bill terminates June 30, 2028.**

Fiscal Summary

State Effect: In FY 2024, general fund revenues may decrease by an estimated \$930,000; Higher Education Investment Fund (HEIF) revenues may decrease by an estimated \$51,000; Transportation Trust Fund (TTF) revenues may decrease by an estimated \$143,000; and TTF expenditures for local highway user revenue grants may decrease by an estimated \$22,000, as discussed below. Future years reflect annualization and minimal utilization of the tax credit after tax year 2024. General fund expenditures for the Comptroller’s Office increase by an estimated \$63,000 in FY 2024 only.

(\$ in thousands)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(\$930)	(\$1,136)	(\$212)	(-)	(-)
SF Revenue	(\$193)	(\$268)	(\$69)	(-)	(-)
GF Expenditure	\$63	\$0	\$0	\$0	\$0
SF Expenditure	(\$22)	(\$36)	(\$10)	(-)	(-)
Net Effect	(\$1,164)	(\$1,368)	(\$270)	\$0	\$0

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

Local Effect: Local highway user revenues decrease due to credits claimed against the corporate income tax and may decrease by an estimated total of \$69,000 in FY 2024 through 2026. Local expenditures are not affected.

Small Business Effect: Minimal overall, but potential meaningful for small businesses that are able to claim the State income tax credit for eligible AED purchases.

Analysis

Bill Summary: AED is defined as a medical heart monitor and defibrillator device that:

- is cleared for market by the federal Food and Drug Administration;
- recognizes the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;
- determines, without intervention by an operator, whether defibrillation should be performed;
- after a determination that defibrillation should be performed, automatically charges; and
- operates in a manner that (1) requires operator intervention to deliver an electrical impulse or (2) automatically continues with delivery of an electrical impulse.

Current Law: No similar State income tax credit exists. Businesses generally may deduct costs associated with the purchase of AEDs as ordinary and necessary business expenses, which typically results in a lower federal and State income tax liability.

Chapter 167 of 1999 established the Maryland Public Access AED Program, which authorized certain facilities to make AEDs available to victims of sudden cardiac arrest. The Maryland Institute for Emergency Medical Services Systems (MIEMSS) is the State agency that oversees the program, including approving entities to participate and issuing registrations.

Under Maryland regulations (COMAR 30.06.02.01), to be eligible for registration or renewal of registration, each facility must designate an AED coordinator who must:

- complete cardiopulmonary resuscitation (CPR) and AED training and subsequent refresher training, in accordance with specified requirements;
- be responsible for implementing and administering the AED program at the facility; and

- ensure that monthly safety inspections of all supplemental and AED equipment are conducted.

A facility must ensure that all expected AED operators have completed CPR and AED training and subsequent refresher training, as specified. AEDs must be placed in locations that are visible and readily accessible to any person willing to operate the AED in the event of a suspected cardiac arrest. A facility must have a telephone or communication service available at all times at which an AED is operated for the notification of a public safety answering point; it must also submit data or other information concerning the AED program as requested by MIEMSS.

Chapters 304 and 305 of 2023, which were signed into law on May 3, 2023, require restaurants with annual gross income of more than \$1.0 million (exclusive of sales for off-premises consumption) and seating capacity of at least 100 individuals, as well as certain grocery stores, to be equipped with an AED beginning January 1, 2025, as specified.

State/Local Revenues: General fund revenues decrease in fiscal 2024 through 2028 due to credits claimed against the State income tax. HEIF and TTF revenues and local highway user revenue grants to local governments also decrease due to credits claimed against the corporate income tax.

Based on information provided by the Maryland Restaurant Association, an estimated 7,800 Maryland restaurants are potentially eligible for the credit based on the bill's minimum annual gross income requirement. As noted above, Chapters 304 and 305 require restaurants with annual gross income of more than \$1.0 million (as specified) and specified minimum seating capacity to be equipped with an AED beginning January 1, 2025. The Maryland Restaurant Association advises that an estimated 4,300 Maryland restaurants have annual gross income of more than \$1.0 million; thus, it is assumed that *up to* 4,300 restaurants are potentially affected by the legislation. Based on information provided by MIEMSS, a new AED unit costs between \$880 and \$1,700, and the cost for a certified pre-owned AED generally ranges from \$500 to \$880.

Exhibit 1 shows the bill's estimated effect on State and local revenues in fiscal 2024 through 2026. As shown in the exhibit, over fiscal 2024 through 2026, State revenues may decrease by an estimated total of \$2.8 million, including \$2.3 million in general funds, and local highway user revenues may decrease by an estimated total of \$69,000. This estimate assumes that a \$500 credit is claimed against the income tax with respect to 90% of eligible Maryland restaurants with annual gross income of more than \$1.0 million, as AEDs are acquired in response to the requirements of Chapters 304 and 305, and 50% of eligible restaurants with annual gross income of \$1.0 million or less. This estimate also assumes that (1) 50% of credits are claimed in tax year 2023, and the remaining 50% of credits are claimed in tax year 2024 and (2) approximately 80% of credits are claimed against the

corporate income tax, with the remaining 20% claimed against the personal income tax. To the extent that utilization of the tax credit differs from the above assumptions, actual revenue losses experienced under the bill may differ from the estimate.

In fiscal 2027 and 2028, State and local revenues decrease, potentially minimally, to the extent additional credits are claimed for eligible AED purchases. As noted above, an individual or business entity may claim the tax credit only once for each restaurant location.

Exhibit 1
Estimated Effects on State and Local Revenues
Fiscal 2024-2028
(\$ in Thousands)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
State Revenues					
General Fund	(\$930)	(\$1,136)	(\$212)	(-)	(-)
HEIF	(51)	(67)	(17)	(-)	(-)
TTF	(143)	(200)	(52)	(-)	(-)
Total	(\$1,123)	(\$1,404)	(\$281)	(-)	(-)
Local Revenues					
LHUR	(\$22)	(\$36)	(\$10)	(-)	(-)

HEIF: Higher Education Investment Fund

LHUR: local highway user revenues

TTF: Transportation Trust Fund

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

Source: Department of Legislative Services

State Expenditures: General fund expenditures for the Comptroller’s Office increase by \$63,000 in fiscal 2024 for one-time changes to the Comptroller’s tax systems.

In addition, TTF expenditures for highway user revenue grants to local governments decrease in fiscal 2024 through 2028 due to credits claimed against the corporate income tax and may decrease by an estimated total of \$69,000 over fiscal 2024 through 2026.

Additional Information

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

Designated Cross File: SB 624 (Senator Zucker, *et al.*) - Budget and Taxation.

Information Source(s): Comptroller's Office; Maryland Institute for Emergency Medical Services Systems; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2023
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