LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5580

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 19, 2019

SUMMARY

Synopsis:	Extends availability period for tax credits for certain expenses incurred for production of certain film and digital media content, raises annual cap related to film production, and provides for annual administration of film tax credits.
Type of Impact:	Potential negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
Agencies Affected:	Department of Treasury, Economic Development Authority, Motion Picture and Television Development Commission, and local governments.

Fiscal Impact	**Multi-year Lifespan of Tax Credit Awards**
Direct State Revenue Loss	Up to $700 million
Indirect State Revenue Gain	Indeterminate
State Opportunity Cost	Indeterminate
Indirect Local Revenue Gain	Indeterminate

- The Office of Legislative Services (OLS) expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State because neither the bill nor current law require the recipients of the tax credits to produce a net fiscal benefit to the State. The OLS cannot quantify the net fiscal impact because of insufficient information regarding: a) the number and details of the newly eligible film and digital media projects and expenses; and b) the State spending that may be crowded out by the additional tax credits.

- The fiscal net impact to the State can be calculated by adding the direct revenue loss from awarding additional tax credit amounts and the opportunity costs associated with them (the fiscal benefits the State has to forgo as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will occur from additional economic activity that the additional tax credit amounts will catalyze.

- The bill's direct revenue loss to the State could total up to $700 million as a result of increasing the annual cap on tax credit awards for qualified film production, extending by five years the tax credit program for qualified film production and digital media content production expenses, and allowing the Economic Development Authority (EDA) to carry forward up to $50 million in unused annual cap space to subsequent fiscal years.

BILL DESCRIPTION

The bill extends the five-year tax credit program for certain film and digital media production expenses incurred in the State by five years through FY 2028. The legislation also increases the annual amount of the cap for tax credits granted for qualified film production expenses from $75 million to $100 million. The bill maintains the annual $10 million cap for tax credits for qualified digital media content production expenses. The bill also allows the EDA to carry forward up to $50 million in unredeemed or non-transferred tax credits from a prior fiscal year to a subsequent fiscal year. This bill allows companies that make certain longer term film production expenses in the State to receive a tax credit that will not be limited to the annual $100 million cap for film production expenses, but will be limited by the overall total of $950 million cap for the lifespan of the credits.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State because neither the bill nor current law require the recipients of the tax credits to produce a net fiscal benefit to the State. The OLS cannot quantify the net fiscal impact because of insufficient information regarding: a) the number and details of the newly eligible film and digital media projects and expenses; and b) the State spending that may be crowded out by the additional tax credits. Conceptually, the fiscal net impact to the State can be calculated by adding the direct revenue loss from awarding additional tax credit amounts and the opportunity costs associated with them (the fiscal benefits the State has to forgo as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will occur from additional economic activity that the additional tax credit amounts will catalyze.

Direct State Revenue Loss: The bill could result in a revenue loss to the State General Fund and the Property Tax Relief Fund of up to $700 million over the multi-year lifespan of the tax credit program for qualified film production and digital media content production expenses.

The bill extends the lifespan of the tax credit program by five years through FY 2028. Therefore, for the five years beginning with FY 2024 the bill can result in a total loss of revenue of $550 million. The tax credit program for qualified film production is capped at $100 million annually and the tax credit program for qualified digital media content is capped at $10 million annually. As a result, for FY 2024 to FY 2028, the maximum loss of revenue to the State can be $550 million.

The bill also increases the annual cap of the tax credits for qualified film production expenses from $75 million to $100 million. This $25 million increase in the annual cap therefore increases the cost of the tax credits by $100 million for FY 2020 through FY 2023, the remaining four years of the initial five years of the program. Note that this assumes the bill is enacted in time for the increased cap to be used in FY 2020. The bill maintains the $10 million cap for tax credits for qualified digital media content production expenses.

In addition, the bill newly allows the EDA to carry forward up to $50 million in unredeemed or non-transferred tax credits from a prior fiscal year to a subsequent fiscal year. As a result, the EDA can carry forward $50 million of the $68.8 million in tax credits that were not used in FY 2019. However, this maximum may not be met if there are insufficient applications to award credits up to the cap. The OLS does not have sufficient data to estimate how much will be used or carried forward into subsequent fiscal years during the lifespan of this bill.

This bill also allows companies that make certain longer term film production expenses in the State to receive a tax credit that will not be limited to the annual $100 million cap for film production expenses, but will be limited by the overall total of the $950 million cap for the remaining nine year lifespan of the program. This may change the annual loss of revenue in a specific fiscal year, but will not change the overall cost of the bill.

It is possible that the loss of revenue could be less than $700 million depending on whether the State reaches the annual caps on both of the tax credits. According to the EDA board minutes, tax credit awards between July 2018 and November 2019 totaled $54.2 million only ($6.2 million in FY 2019 and $48.0 million to date in FY 2020).

Indirect State and Local Revenue Gain: The OLS cannot quantify the bill's indirect revenue gain to the State and local governments attributable to these tax credits because of the lack of sufficient information on the number and aspects of the eligible film and digital media projects and expenses.

The tax credit awards can result in increased revenue through "multiplier effects" by which businesses and individuals receive payments they would not receive absent the awards and then a portion of those payments circulate through the State's economy. As the additional financial resources flow through the economy, the result can include increased revenue collection for the State and for local governments through higher property tax collections through facility improvements which increase the property's values or additional sales and use tax collection from film production staff spending income on taxable goods and services. However, neither current law nor this bill require the tax credits to undergo a multiplier-based net benefit test calculation to ensure that the indirect revenue gain will exceed the direct cost to the State of providing the tax credits, which is why OLS expects this bill to result in a negative net fiscal impact to the State.

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to award additional and increased tax credits will divert resources from other policy alternatives to which they would have been applied absent these tax credits. The policy alternatives also provide direct State costs and indirect State revenue collections. For example, if instead of this legislation the State invested in road construction, the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the amount spent on the film tax credits and that of the foregone road construction investment.

Section:	*Revenue, Finance and Appropriations*
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).