

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1633H.02P
Bill No.: Perfected HCS for HB 675
Subject: Tax Credits; Entertainment, Sports and Amusements; Tourism; Taxation and Revenue - General; Department of Revenue; Economic Development; Department of Economic Development
Type: Original
Date: March 30, 2023

Bill Summary: This proposal establishes the Show Mo Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund**/**/**	Up to (\$16,112,784)	Up to (\$24,260,035)	Up to (\$24,253,739)
Total Estimated Net Effect on General Revenue	Up to (\$16,112,784)	Up to (\$24,260,035)	Up to (\$24,253,739)

*Oversight notes the range of the fiscal impact for the Show Mo tax credit is up to the annual maximum cap (\$16 million annually - \$8 million for film production and \$8 million for series production).

**Oversight notes that section 135.753, the Entertainment Industry Jobs Act, authorizes a tax credit for rehearsal expenses or tour expenses beginning with Tax Years starting January 1, 2024 (FY 2025). This credit has an annual cap of \$8,000,000. Section 135.753.6 (1) allows up to an additional \$2 million in tax credits to be issued beyond the \$8 million cap in any given year. Therefore, the total tax credits issued in a given year could reach \$10 million. Conversely, the subsequent year shall be reduced by the amount of additional tax credits authorized (perhaps reducing the next year's cap down to \$6 million in issuances). Additionally, beginning with Fiscal Year 2025, the proposal authorizes up to \$24,000,000 (\$8M + \$8M + \$8M) in tax credits, annually.

***Lastly, Oversight does not know how many of the tax credits will be issued. Oversight assumes projects that earn these entertainment tax credits will have a net positive benefit to the state. However, Oversight assumes these positive benefits to be indirect impacts of the bill/programs; therefore, Oversight does not reflect the positive impact on the fiscal note.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	1 FTE	Up to 2 FTE	Up to 2 FTE
Total Estimated Net Effect on FTE	1 FTE	Up to 2 FTE	Up to 2 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 135.750 The Show MO Act

In response to the previous version of the proposal, officials from the **Office of Administration – Budget & Planning (B&P)** note:

This proposal reestablishes a tax credit for tax years beginning on or after January 1, 2023, equal to twenty percent of qualifying expenses by a production company in connection with a qualified motion media production project. This could be increased for the following reasons:

- An additional five percent may be earned for qualifying expenses if at least fifty percent of the qualified motion media production project is filmed in Missouri.
- An additional five percent may be earned for the qualifying expenses if at least fifteen percent of the qualified motion media production project that is filmed in Missouri takes place in a rural or blighted area in Missouri.
- An additional five percent may be earned for qualifying expenses if at least three departments of the qualified motion media production hire a Missouri resident ready to advance to the next level in a specialized craft position or learn a new skillset.
- An additional five percent may be earned for qualifying expenses if the DED determines that the script of the qualified motion media production project positively markets a city or region of the state, the entire state, or a tourist attraction located in the state, and the qualified motion media production provides no less than five high resolution photographs containing cast with the rights cleared for promotional use by the Missouri film commission, accompanied by a list with the title of production, location, names, and titles of the individuals shown in the photography and photographer credit.
- The total dollar amount of tax credits authorized pursuant to subdivision (1) of 135.750.3 shall be increased by ten percent for qualified film production projects located in a county of the second, third, or fourth class.

A qualified motion media production project shall not be eligible for tax credits unless such project employs a number of Missouri registered apprentices or veterans residing in Missouri with transferable skills, as outlined in 135.750.4.

These credits may be sold, assigned, exchanged, conveyed, or otherwise transferred. There is a five year carry forward, provided all such credits shall be claimed within ten tax periods following the tax period in which the qualified motion media production or production-related activities for which the credits are certified by the department occurred.

The cap on the tax credits for all tax years beginning on or after January 1, 2023, is \$8,000,000 for film production and the total amount of all tax credits authorized for series production is \$8,000,000. This proposal could therefore lower general and total state revenues by \$16,000,000 per fiscal year, beginning in FY24. To the extent this proposal encourages other economic

activity, general and total state revenue may increase, but B&P cannot estimate the induced revenues.

Officials from the **Missouri Department of Revenue (DOR)** assume this proposal restarts the Film Production tax credit program that previously sunset. It updates the definitions of “Qualified Film Production Project.”

This proposal states that for all tax years beginning on or after January 1, 2023, a taxpayer shall be allowed a tax credit equal to twenty percent (20%) of qualifying expenses. An additional five percent (5%) may be earned for both qualifying expenses if at least fifty percent of the qualified film production project is filmed in Missouri and additional 5% if it is filmed in an urban, rural or blighted area. The taxpayer can receive another five (5%) if the project hires in at least three departments a Missouri resident. Another five percent (5%) may be earned for qualifying in-state expenses if the Department of Economic Development (DED) determines the film positively markets a city or region of the state. This also allows DED to increase the amount of credits authorized in a year if the projects are in counties of the second, third or fourth class.

This proposal states that this credit shall sunset on December 31, 2029, and further states that this section shall terminate on September first of the calendar year immediately following the calendar year in which the program is sunset. These credits are nonrefundable, can be sold or transferred and can be carried forward up to five years.

This proposed legislation could potentially decrease Total State Revenue, specific to General Revenue by an estimated \$16 million per year. DOR notes this tax credit begins January 1, 2023 and therefore, the first tax returns will be filed starting in January 2024.

FY	Decrease to General Revenue
FY 2024	(\$16,000,000)
FY 2025	(\$16,000,000)
FY 2026	(\$16,000,000)

For informational purposes, the Department notes this Film Production tax credit program was created in 1998 and sunset in 2013. Its original cap was \$1.5 million which was increased to \$4.5 million in 2008. Below is information on the authorization, issuance and redemption of the credits over the last few years.

Year	Authorized	Issued	Total Redeemed
FY 2022	\$0.00	\$0.00	\$0.00
FY 2021	\$0.00	\$0.00	\$0.00
FY 2020	\$0.00	\$0.00	\$0.00
FY 2019	\$0.00	\$0.00	\$0.00

FY 2018	\$0.00	\$0.00	\$672.38
FY 2017	\$0.00	\$0.00	\$2,375,651
FY 2016	\$0.00	\$0.00	\$6,832.00
FY 2015	\$0.00	\$2,387,097	\$389,942
FY 2014	\$2,927,000	\$386,000	\$119,800
FY 2013	\$639,772	\$0.00	\$56,665
FY 2012	\$139,070	\$1,390,070	\$4,839,217
Totals	\$3,705,842.00	\$4,163,167.38	\$7,788,779.17

The Department would need to add these credits to the MO-TC form and to the individual income computer system as well as update their website with this credit. These items are estimated to cost \$7,193. Additionally, the DOR may need the following FTE should the number of redemptions justify the additional FTE.

- 1 FTE Revenue Processing Technician for every 6,000 credits redeemed
- 1 FTE Revenue Processing Technician 1 for every 4,000 tax credit transfers with CISCO phones and license.
- 1 FTE Revenue Processing Technician for every 7,600 errors/correspondence

Oversight assumes, for purpose of this fiscal note, the Missouri Department of Revenue can absorb the responsibilities of the tax credit program with existing resources. Should a significant increase in tax credit redemptions, tax credit transfers, and/or errors/correspondence occur, the Missouri Department of Revenue may seek additional FTE through the appropriation process.

Officials from the **Department of Economic Development (DED)** note:

Section 135.750, RSMo, creates the “Show MO Act”. The program will automatically sunset on 12/31/2029 unless reauthorized by an act of the general assembly.

Section 135.750.2 (1) modifies the term and definition of "highly compensated individual" to "above-the-line individual"

Section 135.750.2 (2) Modifies the term and definition of "qualified film production project" to "qualified motion media production project," to include videos, video games, virtual reality, etc. and adds a requirement for projects to include a statement or logo designated by the department of economic development in the credits of the film indicating that the project was filmed in Missouri.

Section 135.750.2 (3)(b) adds compensation and wages for above-the-line individuals to the list of qualified expenses, limited to 25% of overall qualifying expenses.

Section 135.750.3 allows, beginning 1/01/23, a taxpayer a credit of 20% of qualifying expenses. An additional 5% may be earned if at least 50% of the project is filmed in MO. An additional 5% may be earned if at least 15% of the project is filmed in MO takes place in a rural or blighted

area in MO. An additional 5% may be earned if at least 3 departments of the qualified motion media production hire a Missouri resident ready to advance to the next level in a specialized craft position or learn a new skillset. An additional 5% may be earned if DED determines that the script positively markets a city or region, the entire state, or a tourist attraction located in the state, and the qualified motion media production provides no less than five high resolution photographs containing cast with the rights cleared for promotional use by the Missouri film commission. Total amount of tax credits authorized shall be increased by 10% for projects located in a county of the second, third, or fourth class.

Section 135.750.4 establishes requirements for project employment of a number of Missouri registered apprentices or veterans residing in Missouri with transferable skills based on total qualifying expenses.

Section 135.750.5 adds the requirement for submission of a report by a certified public accountant attesting to the submission of amounts in the final application as qualifying expenses.

Section 135.750.6 establishes an annual program cap of \$8M in film production tax credits and a cap of \$8M in series production tax credits

DED will need to hire 2.0 FTE to administer the program. Creating a new tax credit will likely reduce annual TSR by up to the annual cap on the program of \$16,000,000.

Oversight notes that DED authorized 3 projects on average per year (15 projects / 5 years) as seen in the “Film Tax Credit (Sunset November 28, 2013)” tables. Therefore, Oversight will assume the need for 1 FTE for DED (Senior Economic Development Specialist at \$74, 664 plus fringe benefits, and E&E) in the fiscal note.

Oversight notes, per the Tax Credit Analyses submitted for Fiscal Year’s 2013 & 2014, the following number of certificates were issued each of the following fiscal years for the Film Tax Credit Program:

Fiscal Year	Number of Certificates Issued
2010	4
2011	5
2012	2
2013	0
2014	1

Oversight notes, per the Tax Credit Analyses from Fiscal Year(s) 2010 – 2014, the Film Tax Credit recognized the following activity as it was administered before it sunset November 28, 2013:

Film Tax Credit (Sunset November 28, 2013)					
Fiscal Year	2010	2011	2012	2013	2014
Certificates Issued (#)	4	5	2	0	1
Projects (#)	4	2	3	3	3
Amount Authorized	\$1,768,989	\$38,041	\$139,070	\$639,772	\$2,927,000
Amount Issued	\$5,181,512	\$1,807,030	\$139,070	\$0	\$386,000
Amount Redeemed	\$1,925,158	\$1,563,218	\$4,839,217	\$56,665	\$119,800

Oversight notes the five (5) average amount of Film Tax Credit(s) issuances was \$1,502,722.

Oversight notes the tax credit program put forth under this proposed legislation would begin for all tax years beginning on or after January 1, 2023. Tax Year 2023 tax returns claiming the credit will not be filed until after January 1, 2024 (Fiscal Year 2024). Oversight notes the Film Production Companies Tax Credit (sunset in 2013) and the “Show Mo Act” are different; however, the previous program is the best estimate we have of future program usage.

Oversight notes this proposed legislation states that the tax credits certified shall not exceed a total of sixteen million dollars (\$16,000,000) per year.

Therefore, for purposes of this fiscal note, **Oversight** will report a revenue reduction to GR by an amount equal to “Up to \$1,502,722” (average amount of Film Tax Credit issued before sunset on November 28, 2013) to \$16,000,000 (tax credit cap) beginning in Fiscal Year 2024.

Section 135.753 Entertainment Industry Jobs Act

Officials from the **Office of Administration – Budget & Planning (B&P)** note:

This proposal creates a tax credit for rehearsal expenses and tour expenses for all tax years beginning on or after January 1, 2024. The amount of the tax credit shall be equal to thirty percent of the taxpayer's base investment, subject to limitations as outlined in the proposal. This credit is not refundable, can be carried forward to any of the taxpayer's five subsequent taxable years. These credits can be transferred or sold in whole or in part, provided that the tax credit is transferred or sold to another Missouri taxpayer. The amount of tax credits available for this program is \$8M. If the amount of tax credits applied for by taxpayers exceeds such amount, the DED may authorize additional tax credits in an amount not to exceed \$2M, provided that the maximum amount of tax credits that may be authorized during the subsequent fiscal year shall be reduced by the amount of additional tax credits authorized. Therefore, this proposal could lower general revenues by an average of up to \$8M beginning in FY2025. However, in any given fiscal year, the amount could be up to or could exceed \$10M. This provision could impact TSR and the

calculation under Article X, Section 18(e).

This proposal could impact the calculation pursuant to Article X, Section 18(e).

Officials from the **Department of Revenue (DOR)** note:

This proposal creates the Entertainment Industry Jobs Act which provides tax credits for businesses in the entertainment industry.

For all tax years beginning on or after January 2024, a taxpayer shall be allowed a tax credit for rehearsal expenses and tour expenses incurred by the taxpayer. The amount of the tax credit is equal to thirty percent of the taxpayer's base investment. These tax credits are nonrefundable but may be carried forward to any of the taxpayer's five subsequent taxable years. These credits may be transferred or sold.

The Department notes the proposal becomes effective on January 1, 2024 and therefore, the credits will first be reported on the tax returns filed starting January 1, 2025 (FY 2025).

This proposal provides the method by why the taxpayer will apply with the department of economic development for the tax credit, and how this will be reported on the taxpayer's tax form. This proposal provides that the maximum amount of tax credits authorized under this section is eight million dollars (\$8,000,000) per fiscal year. If this amount is exceeded, the department of economic development may, at its own discretion, increase this amount by up to two million additional dollars. If it does this, the amount it was increased by must be subtracted from the amount of credits authorized in the subsequent year. There are limits on the amount any one individual can receive in tax credits.

FY	Decrease to General Revenue
FY 2024	\$0
FY 2025	(\$8,000,000)
FY 2026	(\$8,000,000)

This would be a new income tax credit and it would need to be added to the MO-TC form, and information about the credit would need to be added to their website. Plus the individual income tax system would need to have the credit added to it. DOR notes the costs to update these items is \$7,193.

Since the maximum amount of tax credits a taxpayer can receive in a year is \$3 million, DOR believes they can handle the redemption of these credits with existing resources. Should the number of additional redemptions from this proposal and any others that pass, exceed 6,000 they would need one Associate Customer Service Representative (\$31,200). Should the number of redemptions justice additional FTE they will request that FTE through the appropriation process.

Officials from the **Department of Economic Development (DED)** noted:

Section 135.753 creates the “Entertainment Industry Jobs Act”. Allows a tax credit for rehearsal expenses and tour expenses equal to 30% of the base investment. Base investment is defined as the aggregate funds actually invested and expended by a MO taxpayer as a rehearsal expense or tour expense.

The total amount of tax credits that may be authorized shall not exceed \$8M per fiscal year. DED, at its discretion may authorize additional tax credits up to \$2M per fiscal year; however, the amount of tax credits that may be authorized during the subsequent fiscal year shall be reduced by the amount of additional tax credits DED authorizes.

The program will automatically sunset on 12/31/2030 unless reauthorized.

DED will need to hire 1.0 FTE to administer the act.

Oversight notes section B authorizes the program as of January 1st 2024.

Oversight notes that no credits could be issued until January 1, 2024. The tax credit will first be reported on the tax returns filed starting January 1, 2025. Therefore, **Oversight** will reflect 1 FTE (Senior Economic Development Specialist at \$74,664 annually plus a Fringe Benefits and E&E beginning FY 2025 in the fiscal note.

Officials from the **Department of Commerce and Insurance (DCI)** assume this proposal has a potential in an unknown decrease of premium tax revenues up to the tax credit limit established in the bill in FY2025 and FY2026, as a result of the creation of the Entertainment Industry Jobs Act tax credit. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the new tax credit.

The department will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Oversight notes the officials from the DCI assumed the proposal will have no administrative impact on their organization. **Oversight** assumes DCI is provided with core funding to handle a certain amount of activity each year. Oversight assumes DCI could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DCI could request funding through the appropriation process. Therefore, **Oversight** will

reflect a zero impact in the fiscal note for DCI. **Oversight** assumes, for purposes of simplifying the fiscal note, all credits will be taken against income tax liabilities.

In response to the previous version of the proposal, officials from the **City of Kansas City** and **City of Springfield** both assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact in the fiscal note for these cities.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> - Section 135.750 - Tax Credit for expenses for Film Production (\$8M) and Series Production (\$8M) projects (p. 3-6)	Up to (\$1,502,772) to (\$16,000,000)	Up to (\$1,502,772) to (\$16,00,000)	Up to (\$1,502,772) to (\$16,00,000)
<u>Cost – DED – Section 135.750 (p.7)</u>	\$0 or Up to	\$0 or Up to	\$0 or Up to
Salary	(\$62,220)	(\$76,157)	(\$77,680)
Fringe Benefits	(\$36,265)	(\$44,076)	(\$44,646)
Equipment & Expense	(\$14,299)	(\$4,4554)	(\$4,543)
<u>Total Cost – DED</u>	(\$112,784)	(\$124,688)	(\$126,870)
FTE Change – DED	1 FTE	1 FTE	0 or 1 FTE
<u>Revenue Reduction</u> - Section 135.753 - Tax Credit For Expenses For Entertainment Industry (p. 10)	\$0	Up to (\$8,000,000)	\$0 or Up to (\$8,000,000)
<u>Cost – DED – Section 135.753 FTE to administer the Entertainment Industry Jobs Act (p. 9)</u>		\$0 or Up to...	\$0 or Up to...
Salary	\$0	(\$76,157)	(\$77,680)
Fringe Benefits	\$0	(\$44,076)	(\$44,646)
Equipment & Expense	\$0	(\$15,114)	(\$4,543)
<u>Total Cost – DED</u>	\$0	(\$135,347)	(\$126,869)
FTE Change – DED	0 FTE	0 or 1 FTE	0 or 1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Up to</u> <u>(\$16,112,784)</u>	<u>Up to</u> <u>(\$24,260,035)</u>	<u>Up to</u> <u>(\$24,253,739)</u>
Estimated Net FTE Change on General Revenue	1 FTE	Up to 2 FTE	Up to 2 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill establishes the "Show MO Act".

This bill reauthorizes a tax credit for qualifying expenses related to the production of qualified motion media production projects, as defined in the bill. Tax credits for such expenses under previous law expired on November 28, 2013.

For all tax years beginning on or after January 1, 2024, this bill authorizes a tax credit equal to 20% of qualifying expenses, as defined in the bill, associated with the production of a qualified motion media production project.

An additional 5% may be awarded for each of the following conditions if they are met:

- (1) At least 50% of the qualified film production project is filmed in Missouri;
- (2) At least 15% of the project takes place in a rural or blighted area;
- (3) At least three departments of the production hire a Missouri resident ready to advance to the next level in a specialized craft position or learn a new skillset; and
- (4) The Department of Economic Development determines that the script for such project positively markets a city or region of the state, the entire state, or a tourist attraction located in the state, and the production provides certain advertising materials, as described in the bill.

The total dollar amount of tax credits awarded to a qualified film production project may be increased by 10% if the project is located in a county of the second, third, or fourth class. A qualified motion media production project will not be eligible for tax credits pursuant to this bill unless the project employs the following number of Missouri registered apprentices or veterans residing in Missouri with transferable skills:

- (1) If the qualifying expenses are less than \$5 million, two;

- (2) If the qualifying expenses are at least \$5 million but less than \$10 million, three;
- (3) If the qualifying expenses are at least \$10 million but less than \$15 million, six; or
- (4) If the qualifying expenses are at least \$15 million, eight.

Final applications for the tax credit shall be accompanied by a report by a certified public accountant located and licensed by the state of Missouri, prepared at the expense of the applicant, attesting that the amounts in the final application are qualifying expenses. The total amount of tax credits authorized by this bill for film production or series production shall not exceed \$16 million per year.

The provisions of the "Show MO Act" shall sunset on December 31, 2029, and shall become effective on January 1, 2024.

This bill also establishes the "Entertainment Industry Jobs Act".

Beginning January 1, 2024, a qualified taxpayer shall be allowed a tax credit equal to 30% of the aggregate amount the taxpayer invested and expended as a rehearsal expense or tour expense. "Base investments" and "expenses" are defined in the bill, but with respect to a single employee, aggregate payroll expenses shall not include that portion of an employee's salary that exceeds \$2 million in the aggregate for a single tour.

Any unused tax credits as specified in this bill may be transferred or sold by a qualified taxpayer under certain conditions. Otherwise, tax credits specified in this bill may be taken beginning with the tax year in which the qualified taxpayer has met applicable investment requirements.

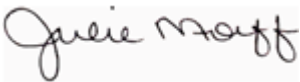
The aggregate amount of tax credits awarded in a fiscal year shall not exceed \$8 million.

The provisions in this bill shall be administered by both the Department of Economic Development and the Department of Revenue and shall automatically sunset on December 31, six years after the effective date.

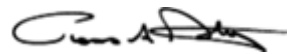
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Economic Development
Office of Administration – Budget & Planning
Department of Commerce and Insurance
Office of the Secretary of State
Joint Committee on Administrative Rules



Julie Morff
Director
March 30, 2023



Ross Strobe
Assistant Director
March 30, 2023