DOAA
Georgia Department of Audits & Accounts

Greg S. Griffin
State Auditor

February 28, 2024

Honorable Shaw Blackmon
Chairman, House Ways and Means
133 State Capitol
Atlanta, GA 30334

SUBJECT: Fiscal Note
House Bill 1180 (LC 50 0723)

Dear Chairman Blackmon:

The bill would revise several definitions used in the film tax credit program, including putting a cap on the amount of credits that can be sold or transferred. The cap is set at 2.5 percent of forecasted state revenue for the corresponding fiscal year. This cap primarily accounts for the changes to state revenue. The bill would also increase the minimum investment required to qualify for the credit and adds criteria that must be met to receive the additional 10-percent uplift. The effective date of the bill is January 1, 2026.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would increase state revenue as shown in Table 1. The increase in revenue (i.e., decrease in credit usage) in Table 1 is attributable to the 2.5 percent cap. The appendix provides details of the analysis, including the potential longer-term impact of the other provisions not captured in Table 1.

Table 1. Estimated State Revenue Effects of HB 1180 LC 50 0723

($ *millions*)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
High Estimate	$0.0	$182.0	$354.6	$332.9	$309.9
Low Estimate	$0.0	$119.3	$228.3	$205.0	$180.2

Impact on State Expenditures

The Department of Revenue would be able to implement the provisions of the bill with existing resources. However, changes to information systems will require approximately 12 weeks of staff time, equal to approximately $144,000 in staff time.

Respectfully,

Greg S. Griffin
State Auditor

Richard Dunn, Director
Office of Planning and Budget

GSG/RD/mt

Analysis by the Fiscal Research Center

The film tax credit, as found in O.C.G.A. § 48-7-40.26, currently allows for an income tax credit of 20 percent of qualifying production expenses, plus an additional 10-percent uplift subject to certain conditions. HB 1180 makes many changes to the provisions of the film tax credit but has no local tax impacts. However, some of the provisions induce such a large impact on the value of the credit available annually that the other provisions do not have a material impact on state revenue in the relevant period of analysis, FY 2025–29. The changes that impact state revenue and are used in the analysis are listed first. In the next section, the other changes in the bill are discussed and shown why they have no impact on state revenue in the relevant period of analysis.

The following are the substantial modifications to the film tax credit that are relevant for this analysis:

- Transfers or sales of the credit per calendar year are limited to 2.5 percent of the Governor's revenue estimate for the corresponding fiscal year.
- Transfers or sales over the 2.5-percent amount are returned to companies based on a prorated share of the total.
- The amount prorated qualifies for an additional year of carryforward.
- Any amount of the prorated credit that a company wishes to transfer or sell in the following calendar year is counted towards the 2.5-percent limit for that year but is not subject to further proration.
- The bill would take effect on January 1, 2026.

Table 2 below shows the estimated amounts of the film tax credit under current law from the state tax expenditure report. The 2.5-percent cap on transfers is estimated from the long-term state revenue forecast from the Governor’s Budget Report for AFY 2024 and FY 2025. The calendar year carryforward is the difference between the two and represents the additional carryforwards over current law. This is referred to as the tax year carryforward in the tables. The second carryforward in Table 2 is the cumulative addition to the carryforward balances; however, these amounts do not impact the estimated revenue effects from this analysis but have longer-term implications that are discussed in the next section.

Table 2. Estimated State High Revenue Effects of 1180 LC 50 0723

($ *millions*)	CY 2025	CY 2026	CY 2027	CY 2028	CY 2029
Baseline Credits Utilized	$1,144.3	$1,254.6	$1,271.5	$1,286.3	$1,306.9
Cap at 2.5% of State Revenue Estimate	$0.0	$890.6	$926.3	$965.7	$1,007.8
Carryforwards, Tax Year	$0.0	$364.0	$345.2	$320.6	$299.1
Carryforwards, Cumulative	$0.0	$364.0	$709.2	$1,029.9	$1,328.9

Historically, all credits utilized are effectively transferred or sold, according to a 2020 report from the Department of Audits and Accounts (DOAA). For the high revenue effect, it is assumed that the cap on carryforwards does not change the behavior of production companies. They transfer or sell all the credits they can under the 2.5-percent cap and sell the prorated share the following year. Thus, the impact to state revenue is the tax year carryforward amount, which is not taken in the year it is issued.

Table 3 shows the low revenue estimate. For the low revenue estimate, it is assumed that the cap on carryforwards does change the behavior of production companies. The data show that production companies do retain some credits, and it is estimated that 3 percent of credits go unused. Thus, it is possible that production companies could use the carryforward amounts to offset their own tax liability. In this estimate it is assumed that production companies are able to utilize 10 percent of the value of the estimated credits against their own Georgia tax liability. This amount would be added to the 2.5 percent allowed under the cap, thus decreasing the savings to the state.

Table 3. Estimated State Low Revenue Effects of HB 1180 LC 50 0723

($ *millions*)	CY 2025	CY 2026	CY 2027	CY 2028	CY 2029
Baseline Credits Utilized	$1,144.3	$1,254.6	$1,271.5	$1,286.3	$1,306.9
Cap at 2.5% of State Revenue Estimate	$0.0	$890.6	$926.3	$965.7	$1,007.8
Carryforwards, Tax Year	$0.0	$364.0	$345.2	$320.6	$299.1
Less: Taxpayer 10% Own Use	$0.0	$125.5	$127.2	$128.6	$130.7
Net State Savings	$0.0	$238.5	$218.1	$192.0	$168.4

The following changes in HB 1180 to the film tax credit may reduce the amount of credits taken in the long run. However, due to the provisions discussed above and the large carryforwards created by the 2.5-percent cap on annual transfers, these provisions only have the potential to reduce the size of the carryforward in the relevant period. We list the provisions below and then discuss briefly why they do not materially impact state revenues before FY 2030.

- The minimum amount of investment required increases from $500,000 to $1 million for film and television productions.
- The credit may only be associated with one certified project rather than several qualifying activities.
- To qualify for the additional 10-percent uplift, a certified project must meet four out of nine criteria approved by the Department of Economic Development and subject to the required audit of the original application. The nine criteria are summarized below:
  (1) At least 50 percent of its crew performing services in this state are Georgia residents;
  (2 At least 50 percent of its vendors providing goods or services in this state are Georgia vendors;
  (3) It incurs at least $30 million of production expenditures in this state;
  (4) At least 50 percent of its photography days occur in one or more rural counties:
  (5) At least 50 percent of its total photography days in studio facilities are in studio facilities in this state, or capital improvements are made by the company to a studio facility in this state of form and manner approved by the Department of Economic Development;
  (6) At least 50 percent of its total photography days in studio facilities are in studio facilities in this state, or a long-term lease is entered into by the company of scope and duration approved by the Department of Economic Development;
  (7) The company agrees to contract with Georgia vendors for 20 percent of such production's postproduction expenditures or contracts with Georgia vendors for 20 percent of such production's visual effects expenditures;
  (8) The company participates in at least one Georgia workforce development program;
  (9) It includes a qualified Georgia promotion, or the company engages in alternative marketing opportunities approved by the Department of Economic Development.

The change in the limit is likely to have a de minimis impact on credits issued. Movie and TV productions account for roughly 95 percent of the credits generated in Georgia, and most have production budgets that already reach the $1 million threshold. Data on individual Georgia production spending was not readily available for this analysis. However, the 2020 DOAA report on the film tax credit found that one half of the movies that received the credit in Georgia had a production budget of $16 million or less. It is assumed that these films currently only invested the minimum of $500,000 to receive the credit. The same assumption is made for TV shows filmed in Georgia. Based on 2023 data, it is estimated that 160 movies and TV shows would be impacted, resulting in a savings to the state of $24 million, roughly 4 percent of credits issued in CY 2023.

The additional criteria necessary to qualify for the 10-percent uplift are also likely to have a small impact on the number of credits issued. Per the 2020 DOAA report, almost all productions currently meet thresholds 1 and 2. It is highly likely that a motivated production company will find a way to meet at least two of the remaining seven criteria. However, for this analysis, the estimate assumes that these additional criteria result in another 8-percent savings to the state, roughly $50 million in film tax credits. Summing the assumed savings from the change in the size of allowed projects of $24 million and the additional criteria to receive the 10-percent uplift of $50 million yields a total savings of $74 million to the state.

Table 3 shows the very large carryforwards totaling over $364 million in CY 2026 and declining slowly to $299 million by 2029. It is these large carryforwards that the $74 million would impact, making them smaller. In addition, the full $74 million would likely be spread out over several years, as the credits are not utilized all at once. Another limit is that in 2026 and 2027, most of the credits being utilized would be generated in years in which the new legislation would not have an effect. Thus, the amount of savings from the new provisions is likely to be less than $74 million annually in FY 2026–29.

An additional degree of uncertainty in the long-term impact of the bill after 2029 involves the carryforwards. The legislation requires that the carryforwards from the previous year be counted towards the 2.5-percent cap in the following year. However, these credits are not subject to proration a second time. Thus, it would appear that the carryforward credits would have priority over those credits that would be newly issued and allowed to be prorated. This has the effect of growing the carryforwards by the amount of the previous year's carryforward. For example, the cumulative carryforwards that can be used in 2028 may be as much as $1.03 billion, as seen in Table 2. That amount is greater than the estimated 2.5-percent cap amount in 2029.

It is unclear from the new legislation what would happen to the credits that can no longer be prorated but exceed the cap. In addition, the carryforwards would continue to grow. It is possible that this incentivizes production companies to change how they plan for taxes in Georgia and encourages them to take a greater amount than is estimated in the tables against their newly figured tax liability. If this happens the benefit to the state may decrease.