This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 3832 Amended by House Ways and Means on April 3, 2025
Subject:	Film Incentives
Requestor:	House Ways and Means
RFA Analyst(s):	Manic and Daigle
Impact Date:	April 8, 2025

Fiscal Impact Summary

This bill as amended makes changes to the amounts and funding available to the South Carolina Film Commission, within the Department of Parks, Recreation and Tourism (PRT), for motion picture film incentives. The bill changes the funding by increasing the annual rebates the Film Commission may issue from $10,000,000 to $30,000,000 annually and repealing the current code section that allocates 26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full $30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit.

Further, the amended bill creates a sales and use tax exemption on spending for accredited theater productions that intend to expend $250,000 or more in connection with productions in a consecutive twelve-month period and a payroll rebate incentive for theater productions with a total production cost of $250,000 or more during a tax year, similar to that for film productions. The theater production rebate incentive is capped at $2,000,000 annually and is required to come from the state's General Fund. In addition to the payroll rebate, the amended bill also allows up to 30 percent of non-payroll expenditures to count towards the aggregate $2,000,0000 theater production rebate if the company has a minimum in-state expenditure of at least $250,000. Any unused rebates are allowed to be carried forward for the next three tax years, increasing the limit in those subsequent years. Further, the bill requires both PRT and the Department of Revenue (DOR) to review and certify the sales tax exemption and the rebate applications. The amendment also permits PRT to form a South Carolina Theater Foundation to solicit donations for the recruitment of theater productions in furtherance of the purposes of the bill.

PRT intends to implement the changes related to motion picture film incentives with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged $406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented in the future, PRT may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates. Also, PRT indicates that it will request an increase in General Fund appropriations to hire an additional FTE (Economic Development Officer I) who will manage the work of the SC Theater Foundation as well as handle the theater production rebate incentive program requirements. The expenditure impact of hiring this additional FTE is undetermined as the agency will need to research the market and evaluate the proper level of experience needed for this type of work.

The bill will have no expenditure impact on DOR as the agency indicates it can manage the additional requirements with existing staff and resources.

The bill will repeal the transfer of 26 percent of the prior year's General Fund admissions tax and increase allowable General Fund rebates by $20,000,000. The impact will be to reduce available General Fund revenue by $9,804,100 beginning in FY 2025-26. The General Fund is expected to be further decreased by up to $2,000,000 in allowed rebates for eligible taxpayers with accredited theater productions. The net General Fund revenue impact of these changes will be a reduction of $11,804,100 in FY 2025-26.

This bill will reduce the state sales and use tax revenue by approximately $395,000 beginning in FY 2025-26. Of this total, the General Fund will be reduced by approximately $263,000, the EIA will be reduced by approximately $66,000 and the HEX will be reduced by approximately $66,000. The FY 2025-26 estimate reflects the full fiscal year impact assuming that the exemption is effective upon signature of the Governor. The impact in the first year may vary depending on timing of the approval for the exemption.

Furthermore, local sales tax revenue will be reduced due to this bill by approximately $104,000 beginning in FY 2025-26. The impact on each local jurisdiction will depend on the local option sales taxes in effect for the various entities.

Explanation of Fiscal Impact

Amended by House Ways and Means on April 3, 2025
State Expenditure
This bill makes changes to the funding to the Film Commission for motion picture film incentives. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit. The bill also creates a new sales and use tax exemption as well as a rebate incentive for taxpayers with an accredited theater production in the state, and it requires both PRT and DOR to review and certify the sales tax exemption and the rebate applications. The amended bill also permits PRT to form a South Carolina Theater Foundation to solicit donations for the recruitment of theater productions in furtherance of the purposes of the bill.

Department of Parks, Recreation and Tourism. PRT intends to implement the changes related to motion picture film incentives with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged $406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented, PRT may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates. Also, PRT indicates that it will request an increase in General Fund appropriations to hire an additional FTE who will be responsible for handling the review and certification of theater production applications for the rebate incentive as well as managing the work of the South Carolina Theater Foundation. The expenditure impact of hiring this additional FTE is undetermined as PRT indicates it will have to research the market and evaluate the proper level of experience needed for this type of work. However, the agency also indicates it expects the FTE to be classified as an Economic Development Officer I.

Department of Revenue. DOR indicates that the bill's requirement to review, certify, and report on accredited theater productions eligible for the new rebate and sales and use tax exemption will have no expenditure impact on the agency as it expects to manage the additional requirements with existing staff and resources.

State Revenue

This bill as amended makes changes to the funds available to the South Carolina Film Commission for motion picture film incentives. The bill changes the funding by increasing the annual rebates the South Carolina Film Commission may issue for motion picture payroll and non-payroll expenses from $10,000,000 to $30,000,000 annually and repealing the current code section that allocates 26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full $30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual limit of rebates.

Further, the amended bill creates a sales and use tax exemption and a rebate incentive for theater productions in the state. The sales tax exemption is applicable for accredited theater productions that intend to expend in the aggregate $250,000 or more in connection with productions in the state within a consecutive twelve-month period. In addition, productions must take place in a facility that contains at least one stage and has a seating capacity of one thousand or more seats, dressing rooms, storage areas, and other amenities necessary for the accredited theater production. Also, the amended bill creates a payroll expense rebate for theater productions with a total production cost of $250,000 or more during a tax year. The theater production payroll rebate incentive is capped at $2,000,000 annually and is required to come from the state's General Fund. In addition to the payroll rebate, the amended bill also allows up to 30 percent of the non-payroll expenditures incurred by the accredited theater production company that spends at least $250,000 in state to count towards the aggregate $2,000,000 theater production rebate. Any unused rebates are allowed to be carried forward for the next three tax years, increasing the limit in those subsequent years.

The bill requires both PRT and DOR to review and certify the applications for sales and use tax exemptions as well as the rebates. The amendment also permits PRT to form a South Carolina Theater Foundation to solicit donations for the recruitment of theater productions in furtherance of the purposes of the proposed legislation. Further, the bill precludes taxpayers from claiming a theater production as well as a film production rebate for the same project. Additionally, the bill requires production companies utilizing South Carolina tax credits or rebates to recognize the support of the state by placing a logo selected by PRT on any advertisement materials and on the front of the playbill of the production. Also, the bill places restrictions on allowing rebates or sales and use tax exemptions for productions that contain certain offensive content, sexual conduct, or lacks serious literary, artistic, political, or scientific value.

Film Production Rebates
Currently, the Film Commission is authorized to rebate to a motion picture company a portion of the South Carolina payroll of the employment of persons subject to income tax withholdings for the motion picture production. The rebate may not exceed 20 percent of the aggregate payroll expenses for persons subject to South Carolina income tax and 25 percent for South Carolina residents. The production must have total costs in South Carolina of $1,000,000 during the taxable year.

Additionally, the Commission currently receives 26 percent of the prior fiscal year's General Fund admissions tax revenue pursuant to Section 12-62-60. These funds may be used to rebate up to 30 percent of the expenditures made by the company for non-payroll expenditures. Up to 7 percent may be used for marketing and special events, and 1 percent may be used for the promotion of collaborative production and education efforts. This section is repealed by the bill.

While the code sections currently separate the funding sources for payroll and non-payroll expenditures, the agency has been allowed to pool these funds by proviso, most recently Proviso 49.14 in the FY 2024-25 Appropriations Act. Further, the Commission has also been authorized to carry forward funds committed to projects from a prior fiscal year, most recently by Proviso 49.8.

The Commission reports that they anticipate there will be sufficient motion picture production projects to rebate the full $30,000,000 allowed under the bill. Based on the forecast by the Board of Economic Advisors on February 13, 2025, General Fund admission tax is projected to total $39,215,000 in FY 2024-25. Under current law, the Film Commission receives 26 percent of this amount, or $10,195,900, in FY 2025-26. This bill repeals this transfer, increasing available General Fund admission tax revenue by $10,195,900. The bill will increase General Fund rebates from $10,000,000 to $30,000,000, for a $20,000,000 reduction in available General Fund revenue due to rebates beginning in FY 2025-26. The net General Fund revenue impact of these changes will be a reduction of $9,804,100 in FY 2025-26.

Theater Production Rebates
The bill also creates a rebate for qualifying taxpayers with an accredited theater production beginning in tax year 2025. Similar to the film incentives rebate, PRT is authorized to rebate to a theater production company a portion of the South Carolina payroll of the employment of persons subject to income tax withholdings for the theater production. The rebate may not exceed 20 percent of the aggregate payroll expenses for persons subject to South Carolina income tax and 25 percent for South Carolina residents, for persons employed in connection with

the production when total production costs in the state equal or exceed $250,000 during the tax year. The aggregate theater production payroll rebate incentive is capped at $2,000,000 annually and must be funded from the state's General Fund.

In addition to the payroll rebate, the amended bill also allows up to 30 percent of the non-payroll expenditures incurred by the accredited theater production company that spends at least $250,000 in the state to count towards the aggregate $2,000,000 theater production rebate. Any unused rebates are allowed to be carried forward for the next three tax years, increasing the limit in those subsequent years. An accredited theater production is defined as either a for-profit live stage pre-Broadway or post-Broadway presentation in a facility located in South Carolina in which live theatrical productions are presented and which contains at least one stage and has a seating capacity of one thousand or more seats, dressing rooms, storage areas, and other ancillary amenities required for the production.

Using data from the online platform Broadway World, we have estimated that there are 52 theater shows scheduled in South Carolina during 2025.[1] Based on the details discussed in the sales and use tax analysis section below, approximately 15 out of the 52 productions are expected to qualify for the rebates taking into account the requirements on the production facilities as well as total spending. We expect that these 15 shows will have on average total production costs of approximately $810,000, with a few shows potentially reaching total costs in excess of $1.5 million. We expect total qualifying theater production costs to equal approximately $15,074,000 in tax year 2025. Total payroll expenses associated with these theater productions are expected to range between 33 and 40 percent of the total production budget.[2] Further, assuming an average share of approximately 37 percent of the total production cost, total payroll expenses for 15 theater productions are expected to equal approximately $5,577,000. Applying a minimum rebate rate of 20 percent yields a total payroll rebate of approximately $1,115,000 for these qualifying productions. Further, non-payroll spending is expected to total approximately 50 percent of the production cost.[2] Using the same expected total production cost data for 15 shows (with 2 shows assumed to average a total cost of at least $1.5 million), the total annual non-payroll spending in the state is expected to equal approximately $7,537,000. Applying the 30 percent rebate rate equals approximately $2,261,000 in non-payroll rebates. As such, total payroll and non-payroll rebates allowed for theater productions in the state are expected to reach the $2,000,000 annual aggregate limit beginning in FY 2025-26. Further, PRT has also confirmed that the agency expects the number of traveling Broadway shows during a year to be enough for the annual aggregate cap for the theater production rebates to be reached. Thus, the General Fund is expected to be further decreased by up to $2,000,000 in allowed rebates for eligible taxpayers with accredited theater productions beginning in FY 2025-26.

Sales and Use Tax Exemption

[1] Broadway World, South Carolina Theater Shows, Retrieved February 10, 2025, https://www.broadwayworld.com/south-carolina/regionalshows.cfm

[2] a) Olivia Rubino-Finn, New Musical Theatre, *Broadway Budgets 101: Breaking Down the Production Budget*, January 22, 2016, https://newmusicaltheatre.com/blogs/green-room/broadway-budgets-101-breaking-down-the-production-budget-1; b) Business Plans, *What Are the 9 Operating Costs of a Live Theater Business?*, Retrieved April 3, 2025, https://businessplan-templates.com/blogs/running-costs/live-theater

The amended bill creates a sales and use tax exemption on spending for accredited theater productions that intend to expend $250,000 or more in connection with productions in a consecutive twelve-month period. Based on data on the 52 scheduled shows in South Carolina in 2025, including theater capacities, the number of showings per production, and ticket prices, we anticipate that 15 productions may qualify for the new sales and use tax exemption in 2025 by expending at least $250,000 on producing a production at a theater with a seating capacity of at least 1,000 seats. For the 15 productions, we estimate total expenditures as approximately $15,074,000. This estimate is based on expenses of approximately 58 percent of the anticipated revenue for each production at full capacity.[3, 4] After excluding the estimated portion of expenditures that is derived from bonds and a contingency fund and allocated to payroll taxes and employee benefits, we estimate the total expenditures for the 15 productions likely to contribute to the qualifying $250,000 minimum as approximately $12,145,000, and on average approximately $810,000 for each production.[5, 6]

Further, based on conversations with DOR, we anticipate that not all expenditures that contribute to the qualifying $250,000 will be taxable, as some expenditures may include nontaxable services, intangibles, and real property transactions. Based on the itemized sample budget and DOR's Sales and Use Tax Manual, we anticipate that approximately 53 percent of each production's qualifying expenditures will be taxable.[7,8] Therefore, we estimate the total expenditures subject to sales and use tax for accredited theater productions in 2025 as approximately $6,483,000, and on average $432,000 per production.[9] Applying a 2.6 percent inflation rate for 2026, we estimate the total expenditures subject to sales and use tax for accredited theater productions in 2026 as approximately $6,652,000.[10]

Of the taxable expenditures, based on the itemized sample budget, we anticipate that approximately 0.18 percent is attributable to accommodations expenses. Therefore, we estimate that approximately $22,000 in 2025 and $23,000 in 2024 of the taxable expenditures for accredited production companies will be exempt from the 7 percent state sales tax on accommodations. Thus, approximately $6,461,000 in 2025 and $6,629,000 in 2026 of the taxable expenditures will be exempt from the 6 percent state sales and use tax.

[3] Generally acceptable budgets for productions are approximately 50 to 65 percent of full box office capacity, and therefore, we use the average of 58 percent.

[4] Weiss, Mitch and Gaffney, Perry, *The Business of Broadway (eBook)*, pg. 111 and 228, 2015, Retrieved April 1, 2025.

[5] Weiss, Mitch and Gaffney, Perry, *The Business of Broadway (eBook)*, pgs. 226 , 2015, Retrieved April 1, 2025.

[6] Estimated expenditures less contingency funds, bonds, payroll taxes, and employee benefits range from a minimum of approximately $250,000 to a maximum of approximately $1,968,000 for productions.

[7] Weiss, Mitch and Gaffney, Perry, *The Business of Broadway (eBook)*, pgs. 224 - 226 , 2015, Retrieved April 1, 2025.

[8] S.C. Department of Revenue, *Sales and Use Tax Manual: Chapter 19 Motion Picture Production Companies*, Retrieved April 2, 2025, https://dor.sc.gov/resources-site/lawandpolicy/Documents/Chapter percent2019 percent20-percent20Motion percent20Pictures.pdf

[9] Estimated taxable expenditures incurred by accredited productions range from a minimum of approximately $118,00 to a maximum of approximately $1,048,000.

[10] Wells Fargo, *U.S. Economic Outlook: March 2025 U.S. Forecast Table, Consumer Price Index,* March 13, 2025, https://wellsfargo.bluematrix.com/links2/html/291a342e-2a6b-44ae-80cb-5ccad6a1e1af#bm-img-198f7206-15b7-4321-99b2-30f3574d414e

Overall, this bill will reduce the state sales and use tax revenue by approximately $395,000 beginning in FY 2025-26. Of this total, the General Fund will be reduced by approximately $263,000, the EIA will be reduced by approximately $66,000 and the HEX will be reduced by approximately $66,000. The FY 2025-26 estimate reflects the full fiscal year impact assuming that the exemption will be available upon signature by the Governor. However, the timing of the impact may vary depending on when the exemption is approved. Further, these estimates may vary depending on the number of accredited theater productions in 2026 and subsequent years, and on the size of productions.

Local Expenditure
N/A

Local Revenue
This bill will reduce local sales tax revenue because of the new exemption. Based upon the analysis included under the State Revenue section, applying an average local tax rate of 1.59 percent to accredited theater expenditures subject to sales and use tax, and a local accommodations tax rate of 2 percent to expenditures on accommodations, local sales tax revenue will be reduced by approximately $104,000 beginning in FY 2025-26. The impact on each local jurisdiction will depend on the local option sales taxes in effect for the various entities.

Frank A. Rainwater, Executive Director