DEPARTMENT OF TAXATION
2017 Fiscal Impact Statement

1. **Patron** L. Louise Lucas

2. **Bill Number** SB 1451
   House of Origin:
   X Introduced
   ___ Substitute
   ___ Engrossed

   Second House:
   ___ In Committee
   ___ Substitute
   ___ Enrolled

3. **Committee** Senate Finance

4. **Title** Income Tax; Tax Credits for Motion Picture Productions Filmed in Virginia

5. **Summary/Purpose:**

This bill would amend the Motion Picture Production Tax Credit by allowing a base credit in an amount equal to 20 percent of qualifying expenses if the production is filmed in a qualified area of Virginia. Under current law, such credit is allowed if the production is filmed in an economically distressed area, as designated by the Virginia Economic Development Partnership ("VEDP"). This bill would define "qualified area" as a location in the Commonwealth that is (i) in an area certified by the U.S. Small Business Administration as a Historically Underutilized Business Zone or (ii) at a place or in an area designated by the United States Secretary of the Interior as a National Historic Landmark or a Federal Historic District that is listed on the National Register of Historic Places.

For taxable years beginning on and after January 1, 2017, the 20 percent base credit earned by a motion picture production company would not be subject to the annual $6.5 million cap if at least 80 percent of such production is filmed or produced in a qualified area of Virginia.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

<u>Administrative Costs</u>

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

Because the number of motion picture productions that would qualify for the new uncapped portion of the Motion Picture Production Tax Credit is unknown, this bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2018.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Film Office

10. Technical amendment necessary: Yes. This bill would require the Department to publish its Annual Report on the Motion Picture Production Tax Credit regardless of the number of taxpayers who claim the credit during a taxable year. However, the Department is already required to publish such report even if such information is not classified so as to prevent the identification of particular taxpayers, reports, or returns and items. Therefore, this provision would be unnecessary. The Department recommends the following technical amendment:

Page 2, Line, beginning of line
Strike: Lines 111 and 112

11. Other comments:

Current Law

Virginia allows a series of refundable individual and corporate income credits for motion picture production companies that meet certain criteria. A motion picture production company with qualifying expenses of at least $250,000 may receive a base credit equal to 15 percent of qualifying expenses or 20 percent of qualifying expenses if the production is filmed in an economically distressed area of Virginia. A motion picture production company may receive an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film in Virginia when total production costs in Virginia are at least $250,000, but not more than $1 million. This additional credit is equal to 20 percent of the total aggregate payroll of such residents when total production costs in Virginia exceed $1 million. A motion picture production company may also receive an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as actors or members of a production crew in connection with the production of a film in Virginia.

"Qualifying expenses" are defined as the sum of the following amounts spent in Virginia by a production company for the production of a motion picture film or an episodic television series filmed in Virginia:

- Goods and services leased or purchased.
- Compensation and wages of up to $1 million per individual for personal services with respect to a single motion picture production.

The aggregate amount of all credits that may be allocated to taxpayers is capped at $6.5 million per fiscal year. The credit was previously capped at $2.5 million for the 2010-2012 biennium, and $5 million for the 2012-2014 biennium. See the chart below for information regarding the amount of credits allocated to taxpayers from 2012 through 2017:

Fiscal Year	Credits Allocated	Annual Credit Cap
2012	$2,500,000	$2.5 million for the 2010-2012 biennium
2013	$1,152,884	$5 million for the 2012-2014 biennium
2014	$3,808,975	
2015	$6,467,500	$6.5 million
2016	$5,494,009	$6.5 million
2017	$6,361,969	$6.5 million

Annual Report on the Motion Picture Production Tax Credit

The Department, in consultation with the Virginia Film Office, to publish an annual report by November 1 of each year regarding Motion Picture Production Tax Credits that were claimed during the preceding calendar year. Such report must include information regarding the location of sites used in a production for which a credit was claimed; qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company; the number of people employed in the Commonwealth with respect to credits claimed; and the total cost to the General Fund. Such information is required to be published even if such information cannot be classified to prevent the identification of particular taxpayers, returns, and items.

Film Tax Credits in Other States

Thirty-three states and the District of Columbia allow film tax incentives. Seventeen states (Alaska, Arizona, Delaware, Florida, Idaho, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, North Dakota, South Dakota, Vermont, and Wisconsin) do not provide film tax incentives.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2016 Appropriations Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

Further, during the 2012 Session, the General Assembly enacted House Bill 246, which prohibits legislation from adding a new credit or renewing an existing credit unless the legislation contains a sunset date of not longer than five years from the effective date of the new or renewed credit.

Proposed Legislation

This bill would amend the Motion Picture Production Tax Credit by allowing a base credit in an amount equal to 20 percent of qualifying expenses if the production is filmed in a qualified area of Virginia. Under current law, such credit is allowed if the production is filmed in an economically distressed area, as designated by VEDP. This bill would define “qualified area” as a location in the Commonwealth that is (i) in an area certified by the U.S. Small Business Administration as a Historically Underutilized Business Zone or (ii) at a place or in an area designated by the United States Secretary of the Interior as a National Historic Landmark or a Federal Historic District that is listed on the National Register of Historic Places.

For taxable years beginning on and after January 1, 2017, the 20 percent base credit earned by a motion picture production company would not be subject to the annual $6.5 million cap if at least 80 percent of such production is filmed or produced in a qualified area of Virginia.

This bill would state that the Department is required to publish its Annual Report on the Motion Picture Production Tax Credit regardless of the number of taxpayers who claim the credit during a taxable year. However, this is already required under existing law.

The effective date of this bill is not specified.

Similar Bills

House Bill 1665 and **Senate Bill 982** would extend the expiration date of the Motion Picture Production Tax Credit from January 1, 2019 to January 1, 2022.

House Bill 1543 would extend the July 1, 2019 expiration date for the Retail Sales and Use Tax exemption for audiovisual works to July 1, 2022.

cc : Secretary of Finance

Date: 1/22/2017 MTH
SB1451F161