



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0897 - Revise MEDIA Act film credit laws (Barker, Brad)

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$1,272,776	\$645,220	\$711,573	\$846,361
State Special Revenue	\$16,500	\$25,000	\$33,000	\$33,000
Revenue:				
General Fund - credits claimed	(\$43,360,000)	(\$43,360,000)	(\$61,740,000)	(\$80,110,000)
State Special Revenue	\$11,500	\$15,000	\$23,000	\$23,000
Net Impact-General Fund Balance:	<u>(\$44,632,776)</u>	<u>(\$44,005,220)</u>	<u>(\$62,451,573)</u>	<u>(\$80,956,361)</u>

Description of fiscal impact: HB 897 increases the annual cap on the MEDIA Act film tax credit to \$75 million with the ability for it to continue to increase, separates the total cap into four categories, expands the types of productions (non-scripted, and documentary productions) eligible for the credit. The bill also moves the termination date of the credit to 2035 and creates an additional credit component for employing veterans and enrolled tribal members.

FISCAL ANALYSIS

Assumptions:**Department of Revenue**

- This bill revises the MEDIA act film tax credits in four significant ways:
 - The bill increases the cap to \$75 million for tax year 2023 and provides that after 2025 the cap increases by 25% each year if at least 80% of the cap was claimed in the prior year.
 - The \$75 million cap is split into four components with 40% initially going to any production or postproduction company on a first-come, first-served basis, 10% for independent film productions (less than \$3 million base investment), 25% for qualified Montana facilities, and 25% for domiciled companies.

Starting in 2025, any credits in the last three categories not claimed in the first two quarters become available to any production on a first-come, first-served basis.

- The bill also adds a production credit component of 30% of wages paid to crew or staff members who are Montana veterans or members of an Indian tribe recognized in Montana and adds non-scripted television and documentaries as types of productions that qualify for the production credit.
 - Finally, the termination date of the act is extended from December 31, 2029, to December 31, 2035.
2. The MEDIA Act was passed during the 2019 Legislature and a cap on the total credits that could be claimed each year was set at \$10 million. The cap was reached for both the first two credit periods in 2020 and 2021. In 2021, the cap was increased to \$12 million per year beginning with 2022 and the cap has been reached for 2022 also. Any additional credits reserved each year after the cap has been reached are carried forward to the next year with available credits, up to five years forward.
 3. Based on the estimated spending and credit reports from productions who have applied for the credit with the Department of Commerce through the end of 2022, it is estimated that approximately \$100 million in credits could be claimed on the production spending that occurred in 2022. Once these credits are verified and approved by the Department of Revenue, the full five years of carryforward credits will be accounted for through 2027 with the current \$12 million cap.
 4. Based on the current levels of production spending in Montana, it is expected that the three of the four components of the \$75 million cap would be reached beginning with TY 2023. The 25% (\$18.75 million) for Montana qualified facilities would not be claimed until those facilities have been completed and are operational. It is assumed this would not occur for two years and that portion of the cap would begin being utilized in TY 2025. The following table shows the different components of the cap and how much of each would be expected to be claimed for TY 2023-TY 2026. The total cap (and all components) would increase by 25% to \$93.75 million in TY 2026 if at least 80% of the \$75 million cap is claimed in TY 2025.

Distribution of Cap and Credits Claimed by Component (millions)						
Tax Year	Total Cap Available	All Productions	Independent films	MT qualified facilities	Domiciled companies	Total credits claimed
2023	\$75.00	\$30.00	\$7.50	\$0.00	\$18.75	\$56.25
2024	\$75.00	\$30.00	\$7.50	\$0.00	\$18.75	\$56.25
2025	\$75.00	\$30.00	\$7.50	\$18.75	\$18.75	\$75.00
2026	\$93.75	\$37.50	\$9.38	\$23.44	\$23.44	\$93.75

5. The following table takes the estimated total credits claimed from above and puts them in a table with the current law credits claimed of \$12 million per year to calculate the change in credits and the net income tax liability change after collecting the 2% transfer fee on the sale of the credits to Montana taxpayers.

Tax Year Impact of Media Credit Cap Increase (millions)					
Tax Year	Current Law Credits Received	Proposed Law Credits Received	Increase in Credits Received	Additional 2% Transfer Fee	Net Income Tax Impact
2022	\$12.00	\$12.00	\$0.00	\$0.00	\$0.00
2023	\$12.00	\$56.25	\$44.25	\$0.89	(\$43.37)
2024	\$12.00	\$56.25	\$44.25	\$0.89	(\$43.37)
2025	\$12.00	\$75.00	\$63.00	\$1.26	(\$61.74)
2026	\$12.00	\$93.75	\$81.75	\$1.64	(\$80.12)

6. The credits received in TY 2023 are assumed to all be transferred and then claimed and reduce income tax collections in FY 2024. Therefore, the net income tax impacts for TY 2023 – TY 2026 in the above table correspond to the impact on general fund revenues in FY 2024 – FY 2027.
7. This changes to the cap made in this bill, along with the addition of non-scripted television and documentaries as qualifying productions are expected to increase the number of applications and resulting application fee revenue received by the Department of Revenue. Under current law, application fees are expected to be about

\$20,000 per year moving forward, and this bill is expected to increase application fees to \$25,000 in FY 2024 and FY 2025, and \$30,000 in FY 2026 and FY 2027. This fee revenue is deposited in a state special revenue account and used to help offset some of the administrative costs to the Department of Revenue.

DOR Administrative Costs

8. The estimated increase in productions and credits claimed due to this bill would increase the workload for the Department of Revenue to audit the expenditure reports and validate the credits as well as track and manage the transfers of credits. With more credits being validated and transferred, more fragmentation is anticipated to occur to find enough buyers with enough tax liability to claim the credits. To track and process these credit transfers, the department would need to add a business credit manager to the integrated revenue information system. This would require about six months of contracted services and cost an estimated \$607,500.
9. The additional expenditure verification and audit work necessary to manage the volume of film tax credits would require additional staff to be added within the Business and Income Tax division of the Department of Revenue. This would be done progressively with an additional 6.00 FTE in FY 2024 and FY 2025, 7.00 FTE in FY 2026, and 8.00 FTE in FY 2027. These FTE would include one manager with the rest of the positions being tax examiners. Total costs for these new positions would be \$601,947 in FY 2024, \$593,415 in FY 2025, \$697,282 in FY 2026, and \$800,911 in FY 2027.
10. Total costs to the Department of Revenue would be \$1,209,447 in FY 2024, \$593,415 in FY 2025, \$697,282 in FY 2026, and \$800,911 in FY 2027.
11. The additional application fee revenue in the state special revenue account would cover a portion of these costs and the remainder would be covered by the transfer fee revenue which is deposited in the general fund.

Department of Commerce

12. In CY 2022, there were 86 known productions of which 51 were eligible for the MEDIA tax credit.
13. Of the 51 productions that were eligible for the credit, 20 applied to the Department of Commerce for the state certification, equating to 39% eligible productions.
14. Of CY 2022 productions, 15 were non-scripted television programs and documentaries that under HB 897 would become eligible for the MEDIA tax credit, that would have resulted in 66 total eligible productions.
15. For this fiscal note, it is assumed that ratio of total eligible productions would apply for certification resulting in an additional 6 (15*39%) applications from non-scripted television programs and documentaries, for a total of 26 applications.
16. Of the remaining 40 productions that did not apply for certification (66 eligible productions – 26 applications), it is estimated that 50% of those do not apply due to the known cap limits.
17. With the significant increase in the cap, an additional 20 applications (40*50%) would be received from productions that previously saw the credits were fully utilized.
18. With the large increase in the MEDIA tax credits, it is anticipated that additional productions would come to the state, however a precise number of new productions is not possible to determine.
19. The total increase in new applications due to HB 897 is estimated to be 26 (6 non-scripted + 20 from cap expansion). The timing of those changes is difficult to estimate. Using the DOR estimates, it is assumed that there would be 13 additional applications in FY 2024, 20 in FY 2025, 26 in FY 2026 and 26 in FY 2027.
20. A \$500 fee must accompany each application submitted to the department. The phase-in in assumption 21, results in an increase in Department of Commerce state special revenue of \$6,500 in FY 2024, \$10,000 in FY 2025, \$13,000 in FY 2026, and \$13,000 in FY 2027.
21. Currently 0.50 FTE is needed to administer the state certification process and complete the report required under 15-31-1011, MCA. The department estimates it will require an additional 0.75 FTE to administer the process and meet the reporting requirements for the increase in applications.

<u>Fiscal Impact:</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
FTE (DOR)	6.00	6.00	7.00	8.00
FTE (Commerce)	0.75	0.75	0.75	0.75
FTE Total	6.75	6.75	7.75	8.75
<u>Expenditures:</u>				
Personal Services (DOR)	\$532,599	\$541,233	\$632,365	\$725,749
Operating Expenses (DOR)	\$676,848	\$52,182	\$64,917	\$75,162
Personal Services (Commerce)	\$63,072	\$63,315	\$34,265	\$65,229
Operating Expenses (Commerce)	\$16,757	\$13,490	\$13,026	\$13,221
TOTAL Expenditures	\$1,289,276	\$670,220	\$744,573	\$879,361
<u>Funding of Expenditures:</u>				
General Fund (01) DOR	\$1,199,447	\$578,415	\$677,282	\$780,911
General Fund (01) Commerce	\$73,329	\$66,805	\$34,291	\$65,450
<i>General Fund Sub-total</i>	<i>\$1,272,776</i>	<i>\$645,220</i>	<i>\$711,573</i>	<i>\$846,361</i>
SSR (02) - DOR	\$10,000	\$15,000	\$20,000	\$20,000
SSR (02) - Commerce	\$6,500	\$10,000	\$13,000	\$13,000
<i>SSR Sub-Total</i>	<i>\$16,500</i>	<i>\$25,000</i>	<i>\$33,000</i>	<i>\$33,000</i>
TOTAL Funding of Exp.	\$1,289,276	\$670,220	\$744,573	\$879,361
<u>Revenues:</u>				
General Fund (01) - credits	(\$44,250,000)	(\$44,250,000)	(\$63,000,000)	(\$81,750,000)
General Fund (01) - transfer fees	\$890,000	\$890,000	\$1,260,000	\$1,640,000
<i>General Fund Sub-Total</i>	<i>(\$43,360,000)</i>	<i>(\$43,360,000)</i>	<i>(\$61,740,000)</i>	<i>(\$80,110,000)</i>
SSR (02) - DOR app. fees	\$5,000	\$5,000	\$10,000	\$10,000
SSR (02) - Commerce	\$6,500	\$10,000	\$13,000	\$13,000
<i>SSR Sub-Total</i>	<i>\$11,500</i>	<i>\$15,000</i>	<i>\$23,000</i>	<i>\$23,000</i>
TOTAL Revenues	(\$43,348,500)	(\$43,345,000)	(\$61,717,000)	(\$80,087,000)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$44,632,776)	(\$44,005,220)	(\$62,451,573)	(\$80,956,361)
State Special Revenue (02)	(\$5,000)	(\$10,000)	(\$10,000)	(\$10,000)

Long-Term Impacts:

1. The total credit cap in HB 897 starts at \$75 million per year but beginning with TY 2026 it would be increased by 25% each year as long as 80% of the cap was claimed the prior year. This would be expected to increase the total cap each year reaching close to \$300 million in TY 2031 and could continue to increase it until the 2035 sunset date at which point the cap could theoretically reach nearly \$700 million.

	
Sponsor's Initials	Budget Director's Initials
20230328	3-28-23
Date	Date