GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill #	HB0480	**Title:**	Generally revise Montana film industry tax laws
Primary Sponsor:	Edmunds, Champ	**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

	FY 2014 Difference	FY 2015 Difference	FY 2016 Difference	FY 2017 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0		$2,000	$2,000
Revenue:				
General Fund	($41,500)	($83,000)	($168,848)	($168,848)
State Special Revenue	$0	$0	$2,000	$2,000
Net Impact-General Fund Balance:	($41,500)	($83,000)	($168,848)	($168,848)

Description of fiscal impact: HB 480 makes the film credits permanent, increases the compensation and expenditure percentages allowed for the credits, establishes higher percentages for larger productions that qualify, and limits the total credits allowed. The rate changes proposed in the bill are estimated to reduce general fund revenue by $41,500 in FY 2014 and by $83,000 in FY 2015. In subsequent fiscal years, the estimated total general fund revenue reduction is $168,848 per year.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. Under current law, taxpayers are allowed a credit against either individual or corporate income tax liability for 14% of the first $50,000 of compensation paid to each Montana resident employed on a state-certified film production. Employee compensation for which the credit is claimed may not also be deducted from gross revenue in calculating taxable income. If the credit is more than the taxpayer's liability, the taxpayer must make an irreversible election to either have the credit refunded or to carry it forward for up to four years.
2. Taxpayers can also claim a credit against individual income tax or corporation tax for 9 percent of purchases in Montana for the making of a film that has met the criteria to be certified by the Department of

Commerce. If the taxpayer claims a credit, it may not also deduct the expenses used for the credit against income in order to calculate net taxable income. If the credit is greater than the taxpayer's liability, the excess credit will be refunded. These credits terminate as of January 1, 2015.

3. HB 480 makes the credits permanent, changes the percentage of compensation and expenditures that can be claimed for the credits, adds another level of credit for larger qualifying productions, and establishes a limit of $10 million on how much can be claimed by all production companies annually.
4. HB 480 increases the percentage the credit is based upon from 14% to 20% of compensation paid to each Montana resident employed on a state-certified film production. The number of productions for which the credits have been claimed and the size of the productions have varied widely over the last five years so this fiscal note uses the averages over those last five years. Based upon the five-year average compensation claimed for credits, if this percentage had been in place, the average credit would have increased $12,000.
5. HB 480 increases the percentage the credit is based upon from 9% to 20% of total qualified expenditures incurred in connection with a state-certified film production. Based upon the five-year average of expenditures claimed for credits, if this percentage had been in place, the average credit would have increased $71,000.
6. The total increase in credits due to this bill is estimated to be $83,000 per year, reducing general fund revenue by the same amount.
7. If the Montana production budget exceeds $1 million and 20% or more of those employed in connection with the production are Montana residents, both the credits are increased from 20% to 25%. Based upon the data submitted to the Department of Revenue (DOR), no productions in the past five years would have met this threshold so the estimate of credits does not include any instances where a 25% credit would have occurred.
8. This bill is effective upon passage and approval. It applies to tax years beginning after December 31, 2012.
9. The first tax year to which this applies is TY 2013. The change in credits will be included on tax returns filed beginning in the spring of CY 2014 affecting tax year revenues in late FY 2014. For purposes of this fiscal note, it is assumed that half the impact on credits, or $41,500, will occur in FY 2014. In FY 2015, and fiscal years thereafter, general fund revenues will be reduced by the total estimated increased amount of credits due to the rate change.
10. This fiscal note calculates the incremental cost of the credit due to the changes in the rates. However, under current law, this credit expires at the beginning of January 2015. Termination of the credit will increase general fund revenue beginning with TY 2015 (affecting FY 2016 and later years). Taking termination of the credit into account, the incremental cost would also include the on-going cost of the credit, beginning with TY 2015 (affecting FY 2016 and later years). The average cost of these credits under current law over the past five years, based on the data available to the DOR, is $85,848. Therefore, in FY 2016 and subsequent years, the total cost of the credit is $168,848 ($83,000 plus $85,848).
11. DOR costs for administering the credits are not estimated to increase.

Department of Commerce (DOC):

12. 15-31-901, MCA, also known as the Big Sky on the Big Screen Act, sunsets on January 1, 2015. The proposed legislation would remove the sunset allowing for the continuation of the program permanently.
13. The effective bill is retroactive to tax years beginning after December 31, 2012.
14. In 2012, eight film productions certified for the Big Sky on the Big Screen Act wrapped up production. It is assumed that this number of productions will be maintained, but they will be larger productions, which will pay the $500 filing fee. This would be an increase from present law in FY 2016 and FY 2017 of $2,000 (8 X $500 X 50% = $2,000).

	FY 2014	FY 2015	FY 2016	FY 2017
Expenditures:				
Operating Expenses	$0	$0	$2,000	$2,000
TOTAL Expenditures	$0	$0	$2,000	$2,000
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$2,000	$2,000
TOTAL Funding of Exp.	$0	$0	$2,000	$2,000
Revenues:				
General Fund (01)	($41,500)	($83,000)	($168,848)	($168,848)
State Special Revenue (02)	$0	$0	$2,000	$2,000
TOTAL Revenues	($41,500)	($83,000)	($166,848)	($166,848)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($41,500)	($83,000)	($168,848)	($168,848)
State Special Revenue (02)	$0	$0	$0	$0

Technical Notes:

Department of Revenue

1. Page 1, line 20 and 21 define "Montana production budget". This definition includes both qualified expenditures and compensation. These are two different components of the film credit. Each has its own statutory requirement for a form. The definition only references the statutory requirement for the compensation form, 15-31-907(5). The definition should also include reference to the qualified expenditure form which is referenced in 15-31-(3)(a) as amended.
2. The bill caps the qualified expenditures tax credit at $10 million. It is unclear how the department should manage the cap.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*