



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # HB0293

Title: Provide for film tax credits

Primary Sponsor: Galt, Wylie

Status: As Introduced

- | | | |
|---|---------------------------------|-----------------------------------|
| <input type="checkbox"/> Significant Local Gov Impact | X Needs to be included in HB 2 | X Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | X Significant Long-Term Impacts | X Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
Expenditures:				
General Fund	\$270,996	\$260,952	\$265,069	\$269,247
State Special Revenue	\$13,500	\$13,500	\$13,500	\$13,500
Revenue:				
General Fund	(\$10,650,000)	(\$13,470,000)	(\$16,290,000)	(\$19,110,000)
State Special Revenue	\$13,500	\$13,500	\$13,500	\$13,500
Net Impact-General Fund Balance:	<u><u>(\$10,920,996)</u></u>	<u><u>(\$13,730,952)</u></u>	<u><u>(\$16,555,069)</u></u>	<u><u>(\$19,379,247)</u></u>

Description of fiscal impact: HB 293 proposes a tax credit incentive to media production companies for certain expenditures related to film, television, and related media production. It is estimated to decrease general fund revenue by \$10.65 million in FY 2020, \$13.47 million in FY 2021, \$16.29 million in FY 2022, and \$19.11 million in FY 2023. HB 293 requires a production company to apply to the Department of Commerce (DOC) for state certification to qualify for the media production tax credit. DOC is required to review and determine the amount of qualifying tax credits and to share this information with the Department of Revenue to administer the tax credits and transfer of any tax credits.

FISCAL ANALYSIS

Assumptions:

Department of Commerce (DOC):

1. HB 293 will create the "Montana Economic Development Industry Advancement Act", which provides a tax credit to encourage media production in the State of Montana.
2. The objectives of this bill are very similar to the "Big Sky on the Big Screen Act" tax credit that was in effect from 2006 through 2014, but the credit structure itself is very different.

3. HB 293 will allow media production companies that register with the state to claim tax credits equal to 20% of qualified Montana production expenditures. There are additional claimable credit percentages for certain compensation, other expenditures, and geographic criteria. The total credit is limited to 35% of the production company's base investment. There are credits available for qualified production (which include expenditures incurred in the year prior to production) and on filing a separate application, a similar credit for post-production expenditures.
4. Legislative Performance Audit, 11P-08 identified 88 certified productions in Montana, from 2005 to 2010. This averages to 15 certified productions per year. With a \$500 filing fee for state-certification of production expenditures, \$7,500 is generated each fiscal year. These fees are deposited into a state special revenue fund and statutorily appropriated to DOC for the administration of these credits.
5. The DOC will require 2.00 FTE to administer this tax credit. The personal services costs are expected to be \$156,129 in FY 2020, \$155,805 in FY 2021, \$158,142 in FY 2022, and \$160,514 in FY 2023. Annual operating costs of \$48,600 (inflated at 1.5% in FY 2022 and FY 2023), and one-time startup costs of \$7,000 are included. A portion of these costs will be covered by the \$7,500 state special revenue generated by the \$500 fee and the remainder will come out of the general fund.

Department of Revenue (DOR)

6. The tax credit structure in HB 293 is based on Georgia's film tax credit which went into effect in FY 2009. The impact in Montana is assumed to be of similar proportions to the impact in Georgia.
7. In the first year of the Georgia film tax credit (FY 2009), \$89 million in film tax credits were given to film production companies. Georgia's gross state product (GSP) in calendar year (CY) 2009 was \$404.58 billion, the film tax credits were approximately 0.022% of GSP.
8. The forecast GSP for Montana in CY 2020 is \$48.4 billion. Assuming HB 293 has similar impacts, relative to the size of the economy on film production as it did in Georgia, the expected Montana film credits taken in FY 2020 will be approximately \$10.65 million.
9. The film credits claimed in Georgia have increased significantly over time with \$254 million being claimed in CY 2016. A similar increase in credit use in Montana results negative revenue of \$13.47 million in FY 2021, \$16.29 million in FY 2022, and \$19.11 million in FY 2023. It is anticipated credit use will increase over time.
10. While it is a non-refundable credit, general fund revenue is anticipated to decrease by the amount of film credits, as the credits are transferable and can be carried forward for up to five years.
11. Prior to filing for the post production tax credit, a production company will be required to submit costs to DOC and pay a \$500 filing fee for the media production tax credit. The post-production credit certification fees are statutorily appropriated to the department of revenue. DOR estimates that fees at \$6,000 each fiscal year. The fees will be deposited into a state special revenue fund the administration of this credit.
12. DOR will require 1.00 FTE to administer this tax credit. The personal services costs are expected to be \$72,767 in FY 2020, \$70,047 in FY 2021, \$71,098 in FY 2022 and \$72,164 in FY 2023. Annual operating costs of \$7,610 (inflated 1.5% in FY 2022 and FY2023) and one-time startup costs of \$2,720 are included. A portion of these costs will be covered by \$6,000 in state special revenue from the \$500 fee and the remaining expenses will be general fund costs.

13. 17-1-508, MCA, requires an analysis of the statutory appropriation relative to the guidance in 17-1-508(3), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines regarding the statutory appropriation:

	<u>YES</u>	<u>NO</u>
a. The money is from a continuing, reliable, and estimable source.	X	
b. The use of the appropriation or the expenditure occurrence is predictable and reliable.	X	
c. The authority exists elsewhere.		X
d. An alternative appropriation method is available, practical, or effective.	X	
e. It appropriates state general fund money for purposes other than paying for emergency services.	X	
f. The money is used for general purposes.		X
g. The legislature wishes to review expenditure and appropriation levels each biennium.	X	
h. An expenditure cap and sunset date are excluded.	X	

<u>Fiscal Impact:</u>	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
FTE (DOR)	1.00	1.00	1.00	1.00
FTE (DOC)	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services (DOR)	\$62,437	\$62,437	\$63,374	\$64,324
Personal Services (DOC)	\$156,129	\$155,805	\$158,142	\$160,514
Operating Expenses (DOR)	\$10,330	\$7,610	\$7,724	\$7,840
Operating Expenses (DOC)	\$55,600	\$48,600	\$49,329	\$50,069
TOTAL Expenditures	<u>\$284,496</u>	<u>\$274,452</u>	<u>\$278,569</u>	<u>\$282,747</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$270,996	\$260,952	\$265,069	\$269,247
State Special Revenue (02)	\$13,500	\$13,500	\$13,500	\$13,500
TOTAL Funding of Exp.	<u>\$284,496</u>	<u>\$274,452</u>	<u>\$278,569</u>	<u>\$282,747</u>
<u>Revenues:</u>				
General Fund (DOR)	(\$10,650,000)	(\$13,470,000)	(\$16,290,000)	(\$19,110,000)
State Special Revenue (DOR)	\$7,500	\$7,500	\$7,500	\$7,500
State Special Revenue (DOC)	\$6,000	\$6,000	\$6,000	\$6,000
TOTAL Revenues	<u>(\$10,636,500)</u>	<u>(\$13,456,500)</u>	<u>(\$16,276,500)</u>	<u>(\$19,096,500)</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$10,920,996)	(\$13,730,952)	(\$16,555,069)	(\$19,379,247)
State Special Revenue (02)	\$0	\$0	\$0	\$0

Long-Term Impacts:

1. The total film tax credits claimed in Georgia have continued to increase year-after-year since the credit was put in place in 2009 and the same trend may occur in Montana.

Technical Notes:

Department of Commerce (DOC)

1. DOC will need to have a MOU with DOR to verify the veracity of some items claimed such as which crew members were Montana residents, the amount of compensation for each actor, director, producer, or writer for whom Montana income taxes were withheld.

Department of Revenue (DOR)

2. HB 293 is effective upon passage and approval, but it does not state whether production companies can apply the credit to a tax year that has already started or only to tax years beginning after the bill is passed. It is assumed that production companies can claim the credit for tax years beginning after December 31, 2018, and the impact on revenue would begin in FY 2020.
3. Section 3 (16) of HB 293 states qualified postproduction expenditures are to be incurred in Montana. However, section 5 and section 8 state that the qualified postproduction expenditures only need to be either more than half performed and paid in Montana (section 5) or a majority of the postproduction work performed in Montana, (section 8).
4. In Section 6 (4), HB 293 states in part; “If one production company makes a production expenditure to hire another production company to produce a project the hired production is entitled to claim the credit.” This language seems contradictory to the definition of a production expenditure, which is an expenditure required to be incurred in Montana., when the hired company is doing work outside of Montana.

<i>Sponsor's Initials</i>	<i>Date</i>	<i>TL</i> <i>Budget Director's Initials</i>	<i>2/1/19</i> <i>Date</i>
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