GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0340
Title:	Revise the MEDIA Act film tax credits
Primary Sponsor:	Galt, Wylie
Status:	As Amended in Senate Committee

☐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 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Revenue:				
General Fund	$0	($2,000,000)	($2,000,000)	($2,000,000)
State Special Revenue	$0	$30,000	$30,000	$30,000
Net Impact-General Fund Balance:	$0	($2,000,000)	($2,000,000)	($2,000,000)

Description of fiscal impact: HB 340 as amended in the Senate Finance and Claims Committee, revises the Montana Economic Development Industry Advancement (MEDIA) Act film tax credit, by increasing the annual cap on credits issued from $10 million to $12 million. The amendment also adds contingency conditions to address American Rescue Plan Act (ARPA) considerations.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. HB 340, as amended in Senate Finance and Claims, revises the Montana Economic Development Industry Advancement (MEDIA) act to increase the $10 million annual cap on credits issued to $12 million and adds American Rescue Plan Act (ARPA) contingent termination language that would delay the effective date of the bill if necessary (see technical note #1).
2. All other previous changes to the MEDIA act included in HB 340 were removed with this amendment.
3. Under current law, for the first credit period of TY 2020 (and part of CY 2019) it is estimated that there was approximately $90 million in qualified spending, and about $18 million in requested credits. Based on already

planned productions, it is expected that qualified spending and credits requested for TY 2021 will increase by at least 20%.

4. Under current law, only $10 million of the requested credits each year can be paid out and the remaining ones are carried over for up to five years until they are able to be paid out under the cap. It is assumed that with the cap in place, qualified spending and requested credits would increase 10% each year starting with CY 2022 (see long-term impacts).
5. Under this bill and the new $12 million cap, it is expected that there would not be a significant change to the qualified spending or credits requested from current law. The only change is that an extra $2 million of the credits requested each year can be paid out, beginning with CY 2022.
6. It appears from the first credit period in 2020 that most of the credits will be transferred from the production companies to Montana taxpayers, so it is assumed that the 2% transfer fee will be collected on 80% of the claimed credits. Similarly, it is assumed that most of the productions claiming the credit do not have Montana taxable income, so there would not be significant additional tax liability due to 15-31-1007 (8), MCA, which does not allow production expenditures used for the credit calculation to also be claimed as a deduction.
7. The following table shows the calculation of the credits claimed for CY 2020 to CY 2025

Current Law ($ millions)				Proposed Law ($ millions)			
Tax Year	Estimated Spending	Credits Requested	Credits Received	Credits Received	Credits Received	Additional 2% Transfer fee	Net Change
2020	$90.000	$18.000	$10.000	$10.000	$0.000	$0.000	$0.000
2021	$108.000	$21.600	$10.000	$10.000	$0.000	$0.000	$0.000
2022	$118.800	$23.800	$10.000	$12.000	$2.000	$0.030	$1.970
2023	$130.700	$26.100	$10.000	$12.000	$2.000	$0.030	$1.970
2024	$143.700	$28.700	$10.000	$12.000	$2.000	$0.030	$1.970
2025	$158.100	$31.600	$10.000	$12.000	$2.000	$0.030	$1.970

8. It is assumed that Montana income tax revenue would decrease by the change in credits minus the additional revenue from the credit transfer fee. Based on the timing of individual and corporate income tax returns, it is assumed that 70% of the credits claimed for TY 2021 would decrease revenues in FY 2022 and the remaining 30% would decrease revenues in FY 2023. The same pattern applies to future years.
9. The fiscal year timing of credit claims means this bill would decrease general fund revenues by $1.38 million in FY 2023 and $1.97 in FY 2024 and FY 2025, relative to present law. However, the levels of credits requested, and the carry-over credits are assumed to result in the cap being reached cap in FY 2023, as well.
10. The estimates in this fiscal note assume consistent growth in credits claimed, but the actual credit liability may be more volatile because liability can be driven by a small number of very large productions. The credit caps moderate credits claims.

DOR Administrative Expense

11. The increase of the annual cap to $12 million is not expected to increase the number of credit claims or costs to the department above present law.

Department of Commerce (DOC)

12. Under current law in order to become a state-certified production, eligible for MEDIA Act tax credits, companies submit applications and a $500 filing fee to department before the start of principal photography. On the application the production company states the expected investment category ($350,000 or more, or $50,000 or more). Postproduction companies submit applications and a $500 filing fee to the department as well. A postproduction company that plans to claim credits in multiple years must supply an application every year but is only required to pay the application fee with the initial application.
13. By lifting the $10 million cap to $12 million, this would allow more credits to be claimed earlier than under present law

14. Prior to the MEDIA Act there were 6 independent features. In FY 2020 after the implementation of the MEDIA Act, there were 13 independent features that were certified productions. This is a 46% increase.
15. This fiscal note assumes that the cumulative number of new productions claiming credits and paying the $500 filing fee for state-certification, effectively matches current law, as credit requests exceed the present law and HB 340 as amended caps.
16. Calendar year expenditures are reported on the company's income tax filing in the following fiscal year.
17. It is assumed that certified productions will continue to seek and claim credits as soon as they are available.
18. The $10 million cap on the amount of tax credit that can be claimed each year is expanded to $12 million by this bill. The growth in the number of productions seeking credits is expected to match present law.

Fiscal Impact:	**FY 2022 Difference**	**FY 2023 Difference**	**FY 2024 Difference**	**FY 2025 Difference**
Department of Revenue (DOR) & Department of Commerce (DOC)				
FTE (DOR)	0.00	0.00	0.00	0.00
Expenditures:				
Personal Services (DOR)	$0	$0	$0	$0
Operating Expenses (DOR)	$0	$0	$0	$0
TOTAL Expenditures	$0	$0	$0	$0
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Funding of Exp.	$0	$0	$0	$0
Revenues:				
General Fund -- Tax Credits (DOR)	$0	($2,000,000)	($2,000,000)	($2,000,000)
General Fund -- 2% fee (DOR)	$0	$30,000	$30,000	$30,000
State Special Revenue (DOC)	$0	$0	$0	$0
TOTAL Revenues	$0	($1,970,000)	($1,970,000)	($1,970,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	($1,970,000)	($1,970,000)	($1,970,000)
State Special Revenue (02)	$0	$0	$0	$0

Long-Term Impacts:

1. The qualified spending in Montana is expected to continue to grow in the short-term, but if the credit backlog grows, production companies may not be able to receive their credit within the five-year carryforward period.

Technical Notes:

1. The amended bill includes contingent termination conditions related to the American Rescue Plan Act (ARPA). If the contingencies are invoked, the ARPA effective dates and contingent terminations would defer the fiscal impacts of the increase in the annual tax credit cap. This fiscal note assumes that the contingent termination conditions are not met.

		KA	5/25/21
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*