



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:	
HB0844 - Generally revise MEDIA Act film tax credits (Seekins-Crowe, Kerri)	
Status:	As Introduced

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

	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
Expenditures:				
General Fund	\$1,646,164	\$1,403,870	\$1,468,740	\$1,613,650
State Special Revenue	\$16,500	\$25,000	\$33,000	\$33,000
Revenue:				
General Fund	(\$86,151,800)	(\$122,916,500)	(\$208,740,000)	(\$251,615,000)
State Special Revenue	\$16,500	\$25,000	\$33,000	\$33,000
Net Impact-General Fund Balance:	<u>(\$87,797,964)</u>	<u>(\$124,320,370)</u>	<u>(\$210,208,740)</u>	<u>(\$253,228,650)</u>

Description of fiscal impact: HB 844 eliminates the annual cap on the MEDIA Act film tax credit, expands the types of productions (non-scripted productions) eligible for the credit. The bill also moves the termination date of the credit to 2033. An additional credit is granted for employing veterans and enrolled tribal members.

FISCAL ANALYSIS

Assumptions:

1. HB 844 revises the MEDIA act to eliminate the annual cap on the available tax credits that may be claimed by certified media production and post-production activities. Unscripted television and documentary productions are added to activities that can claim the tax credit. This bill also extends the termination date of the MEDIA act from 2029 to 2033. Credits can be claimed for 30% of wages paid to crew members or production staff who are Montana veterans or enrolled members of an Indian tribe in Montana.
2. The MEDIA Act was passed during the 2019 Legislature with \$10 million per year in available tax credits. 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 in 2022 and the cap has been reached for 2022. Any additional credits reserved each year after the cap has been reached are carried forward to the next year for up to five years.
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. That \$100 million in credits is on estimated qualifying spending reported by the productions of about \$415 million. This is an increase from the estimated credits for productions in 2020 and 2021 of about \$18 million and \$32 million respectively. The validated and reserved credits by the DOR were similar to the estimates provided by the productions in the application process, so those estimates from 2020 through 2022 are used to project the continued growth in spending and credits claimed with no cap, as proposed in this bill.
5. There is expected to be moderate growth in 2023 but the significant increase in spending and credits is expected to occur in 2024 after more productions have time to react to the removal of the cap.
6. The productions typically take 6-12 months after filming to submit their expense report to DOR and then it takes DOR another 2-3 months to complete the audit and verify the requested credit amount. Therefore, it is assumed that for productions filming in 2022, 75% of the credits would be validated in 2023 and the remaining 25% in 2024. The credits validated in 2023 include the remaining backlog of credits from filming in 2021 and 75% of the estimated credits for filming in 2022. This timing is expected to continue.
7. The following table shows the estimated spending and resulting credits for productions occurring 2020 through 2026 under this bill. The current law credits validated column shows the current law credit cap of \$10 million in 2020 and 2021 and then \$12 million each year after. The HB 844 validated credits column applies the retroactive applicability date of this bill to begin with no cap in 2023 and accounts for the time between the productions occurring and the submission of costs to the department and then the audit process before credits are validated.

Calendar Year	Estimated Qualified Spending	Estimated Credits Claimed	Current Law Validated Credits	HB 844 Validated Credits	HB 844 Change in Credits
2020	\$85	\$18	\$10	\$10.00	\$0.00
2021	\$131	\$32	\$10	\$10.00	\$0.00
2022	\$415	\$100	\$12	\$12.00	\$0.00
2023	\$600	\$150	\$12	\$93.00	(\$81.00)
2024	\$1,000	\$250	\$12	\$137.50	(\$125.50)
2025	\$1,100	\$275	\$12	\$225.00	(\$213.00)
2026	\$1,200	\$300	\$12	\$268.75	(\$256.75)

8. The film tax credit is nonrefundable and transferrable. So far 100% of the credits have been transferred. It is assumed that the entire change in credits in the table above will also be transferred and claimed by taxpayers with Montana tax liability . The department collects a 2% transfer fee on all credits transferred. The following table shows the estimated revenue generated from the transfer fees. It is assumed the credits will be transferred and claimed in the fiscal year following the calendar year they are validated in.

Fiscal Year	HB 844 Change in Credits	Additional Transfer Fee Revenue
2024	(\$81,000,000)	\$1,620,000
2025	(\$125,500,000)	\$2,510,000
2026	(\$213,000,000)	\$4,260,000
2027	(\$256,750,000)	\$5,135,000

9. The Department of Revenue also collects an application fee with the submission of costs from productions of \$500 for small productions (less than \$350,000 base investment) and \$1,000 for large productions (greater than \$350,000 base investment). The department has received between \$3,000 and \$15,000 in application fees over the past three years and it is expected that under current law, application fee collections would level out

at about \$20,000 per year. It is assumed that HB 844 would increase application fees received by DOR to \$30,000 in FY 2024, \$35,000 in FY 2025, and about \$40,000 per year beginning with FY 2026. These application fees are deposited in a state special revenue account to help cover DOR administrative costs.

DOR Administrative Costs

10. 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 an 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.
11. The additional expenditure verification and audit work necessary to manage the volume of film tax credits would require a new unit to be added within the Business and Income Tax division of the Department of Revenue. This would be done progressively with an additional 10.00 FTE in FY 2024, 14.00 FTE in FY 2025, 15.00 FTE in FY 2026, and 16.00 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 \$975,335 in FY 2024, \$1,352,065 in FY 2025, \$1,454,449 in FY 2026, and \$1,568,200 in FY 2027.
12. Total costs to the Department of Revenue would be \$1,582,835 in FY 2024, \$1,352,065 in FY 2025, \$1,454,449 in FY 2026, and \$1,568,200 in FY 2027.
13. 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


14. In CY 2022, there were 86 known productions of which 51 were eligible for the MEDIA tax credit.
15. 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.
16. Of CY 2022 productions, 15 were non-scripted television programs and documentaries that under HB 844 would become eligible for the MEDIA tax credit, that would have resulted in 66 total eligible productions.
17. 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.
18. 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.
19. With the removal of the cap, an additional 20 applications (40*50%) would be received from productions that previously saw the credits were fully utilized.
20. With no cap on the MEDIA tax credit, it is anticipated that additional productions would come to the state, however a precise number of new productions is not possible to determine.
21. The total increase in new applications due to HB 844 is estimated to be 26 (6 non-scripted + 20 from cap removal). 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.
22. 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.
23. 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)	10.00	14.00	15.00	16.00
FTE (Commerce)	0.75	0.75	0.75	0.75
FTE Total	10.75	14.75	15.75	16.75
<u>Expenditures:</u>				
Personal Services (DOR)	\$859,755	\$1,218,875	\$1,318,652	\$1,420,814
Operating Expenses (DOR)	\$723,080	\$133,190	\$135,797	\$147,386
Personal Services (Commerce)	\$63,072	\$63,315	\$34,265	\$65,229
Operating Expenses (Commerce)	\$16,757	\$13,490	\$13,026	\$13,221
TOTAL Expenditures	\$1,662,664	\$1,428,870	\$1,501,740	\$1,646,650
<u>Funding of Expenditures:</u>				
General Fund (01) DOR	\$1,572,835	\$1,337,065	\$1,434,449	\$1,548,200
General Fund (01) Commerce	\$73,329	\$66,805	\$34,291	\$65,450
<i>General Fund Sub-total</i>	<i>\$1,646,164</i>	<i>\$1,403,870</i>	<i>\$1,468,740</i>	<i>\$1,613,650</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.	\$1,662,664	\$1,428,870	\$1,501,740	\$1,646,650
<u>Revenues:</u>				
General Fund (01) - credits	(\$87,910,000)	(\$125,425,000)	(\$213,000,000)	(\$256,750,000)
General Fund (01) - transfer fees	\$1,758,200	\$2,508,500	\$4,260,000	\$5,135,000
<i>General Fund Sub-Total</i>	<i>(\$86,151,800)</i>	<i>(\$122,916,500)</i>	<i>(\$208,740,000)</i>	<i>(\$251,615,000)</i>
SSR (02) - DOR app. fees	\$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 Revenues	(\$86,135,300)	(\$122,891,500)	(\$208,707,000)	(\$251,582,000)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$87,797,964)	(\$124,320,370)	(\$210,208,740)	(\$253,228,650)
State Special Revenue (02)	\$0	\$0	\$0	\$0

Technical Notes:

1. On page 1, line 27, the refence to “rate of 6.9%” should be changed to “highest marginal rate in 15-30-2103.”
2. With HB 844, the language in Section 3, (15-31-1005 (3)(a), MCA) is struck relating to the Department of Revenue sharing the calculated MEDIA tax credit and the federal tax identification number of the production company with the Department of Commerce. This information is needed to prepare the reports called for in Section 7.

NOT SIGNED BY SPONSOR

			3-24.23
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>