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FISCAL IMPACT REPORT

SPONSOR Lujan DATE TYPED 03/14/05 HB 242/a HTRC
 SHORT TITLE Expand Film Production Tax Credit Eligibility SB _____
 ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(\$250.0)*	(\$250.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

At this time, the TRD fiscal impact analysis was not available for the amended bill. Upon the receipt of this analysis, the estimate will be revised, if necessary.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD) (none received for HTRC amendment)

SUMMARY

House Bill 242 as Amended by House Taxation and Revenue Committee

The House Taxation and Revenue Committee (HTRC) amended House Bill 242. The amendments appear to be fairly minor. One amendment changes the wording regarding the application to TRD to include a certification of the amount of direct production expenditures or “post production expenditures”, striking “technology expenditures”. Another amendment modifies the definition of “postproduction” to mean an expenditure that occurs after the completion of principal and ongoing photography including an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing distribution or expense payments.

The original bill defined "postproduction" to mean the final stage in the production of a film that occurs after the completion of principal and ongoing photography and includes editing, Foley

recording, automatic dialogue replacement, sound editing, special effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling and addition of sound or visual effects, but does not include advertising, marketing or expense payments.

Synopsis of Original Bill

House Bill 242 makes several changes to the Film Production Tax Credit, including expanding eligibility for the 15 percent film production tax credit and increasing requirements for film production company applicants.

Expanded Eligibility

The bill expands eligibility by allowing postproduction expenditures that are: (1) attributable to the production of a commercial audiovisual product (a film or videogame for commercial exploitation) (2) services performed in New Mexico, and (3) subject to taxation in New Mexico. The bill defines postproduction as the final stage in the production of a film, including but not limited to editing, special effects, beginning and ending credits and excluding advertising, marketing, or expense payments.

Additional Requirement

House Bill 242 includes provisions to increase the requirements by stating that the film production company must agree in writing to the following:

- Pay all obligations the film production company has incurred in New Mexico;
- Publish in local newspapers, once a week for three consecutive weeks, to notify the public of the need to file creditor claims against the film production company by a specified date;
- That outstanding obligations are not waived should a creditor fail to file by the specified date; and
- Delay filing of a claim for the film production tax credit until the New Mexico film division delivers written notification to the Taxation and Revenue Department that the film production company has fulfilled all requirements for the credit.

The effective date of this act is July 1, 2005.

FISCAL IMPLICATIONS

At this time, the TRD fiscal impact analysis was not available for the amended bill. Upon the receipt of this analysis, the estimate will be revised, if necessary.

According to TRD's revised analysis of the original bill, House Bill 242 would have a -\$250 thousand impact to the General Fund in FY06. According to TRD, the bill is expected to increase utilization of film credits by expanding eligibility to include post-production services provided in New Mexico for films shot outside the state. According to TRD, approximately \$5 million in credits has been claimed under current law in the past two and a half years. They note that the 1997 Economic Census for New Mexico reports total revenue of "post-production and other motion picture and video industries" was \$2.1 million. TRD's estimate assumes a \$250 thousand annual increase in credits for production activities not previously eligible for the credit.

ADMINISTRATIVE IMPLICATIONS

According to TRD, the Department will face modest administrative expenses in making the transition to implement the new eligibility allowed under the bill.

OPJ/lg:yr