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FISCAL IMPACT REPORT

ORIGINAL DATE 03/10/11

SPONSOR Jennings LAST UPDATED _____ HB _____

SHORT TITLE Film Production Tax Credit Changes SB 455

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$26,000.0	\$27,200.0	Recurring	General Fund
	(\$26,000.0)	(\$27,200.0)	Recurring	Certain local governments

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$20.0	\$20.0	\$20.0	\$60.0	Recurring	Taxation and Revenue Department

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

New Mexico Municipal League

SUMMARY

Synopsis of Bill

Senate Bill 455 would require municipalities and counties with populations greater than 30 thousand to contribute 40 percent of the film production tax credits allowed in each fiscal year. The department would hold back the amount from distributions made pursuant to Sections 7-1-6.46 and 7-1-6.47 (food and medical hold-harmless payments). The monthly offset would be 3 and 1/3 percent of the total annual amount of the film production tax credits allowed in the fiscal year immediately preceding the current fiscal year. The rate at which local food and medical hold harmless payments would be capped at the lesser of the local option taxes in effect on January 1, 2007 or January 1, 2011.

SB 455 would cap total film production tax credit payments at \$75 million per year beginning July 1, 2011. A film production company that is unable to receive credits in a particular year because of the cap will be placed in a queue for the subsequent year’s credits in the order of the date on which the credit was authorized for payment.

FISCAL IMPLICATIONS

TRD:

Estimated Revenue Impact of Film Credit Changes*					R or NR**	Fund(s) Affected
FY2011	FY2012	FY2013	FY2014	FY2015		
-	26,000	27,200	28,600	30,000	R	General Fund
-	(26,000)	(27,200)	(28,600)	(30,000)	R	Certain local governments

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Estimates reflect a shift of 40 percent of projected film credits using the consensus group forecast of film credit claims. Credits are expected to exceed \$75 million beginning in FY15. The table on page 3 provides an illustration of the impacts of the proposed local distribution changes in FY12. Capping food and medical hold harmless distribution rates at the lesser of local option gross receipts tax (GRT) rates imposed on January 1, 2007 or January 1, 2011 will prevent almost \$1 million in hold harmless distributions to Albuquerque from the General Fund in the first half of FY12 and may continue to prevent hold harmless distributions from exceeding actual lost tax revenue in future periods as well. See **Estimated Revenue Impact – Detailed Discussion** on page [three].

SIGNIFICANT ISSUES

TRD:

The proposal would shift the financing of the film credit from the state general fund to local governments of the largest cities and counties in the state. Anecdotal evidence suggests that most of the activity funded by the credits occurs in some of these cities, although precise information on the amount in each city is not available. Since the economic benefits of the activity stimulated by the credit derive in part to the cities and counties, shifting part of the credit financing to these entities would appear to be justifiable.

Please note the table on page 5, which provides estimates of the incidence of the cost-sharing proposed in SB 455. For the most part, the cities and counties most likely to benefit from those film expenditures are those that share the cost. However, there are some issues of note. First, the cost to the entity depends on the size of the hold harmless distribution, as opposed to some measure of population. This would target communities with large hospitals, for example, because their medical hold harmless would be larger. In addition, the County-Supported Medicaid distribution would be hit with the film production credit cost-sharing.

ADMINISTRATIVE IMPLICATIONS

TRD:

Software used to distribute local hold harmless payments would have to be modified at a one-time expense. Processes for managing the credit cap would have to be implemented.

OTHER SUBSTANTIVE ISSUES

TRD:

The film production tax credit is the most generous economic development incentive offered by the state. The credit amounts to 25 percent of most expenditures undertaken by film production companies operating in the state. This amount is not a return of taxes due, but rather a rebate based on expenditures. Proponents of the tax credit cite the increased level of economic activity in the state associated with the credit. However, most studies of the issue have concluded that the return of state dollars associated with the credits is significantly less than credits paid out, even when “multiplier” effects are taken into account. Although proponents have argued that there are benefits to the state’s economy beyond state revenues, those benefits accrue to private individuals. Since the state is not in a position to subsidize all businesses, this appears to violate the equity principle of good tax policy which argues that different businesses should be treated in a similar manner. Although the state has provided other tax relief to other targeted populations, the rate of subsidy has generally been lower and the time frame for which a subsidy is offered has been shorter. At 25 percent, the rate of subsidy is so high that any expansion of this program, or extension to other industries, could pose a serious risk to the state’s finances.

Under present law, the film credit is available for expenditures that are “subject to taxation” in New Mexico. This does not mean that taxes are actually being paid on all expenditures. For example, no gross receipts tax is paid for post-production services performed on a film if performed for an out-of-state buyer. However, it can be argued that the expenses are still “subject to taxation” because the seller may pay income taxes. Under current reporting, the Department does not have the information needed to determine that taxes are actually being paid on all of the expenses for which credit is being claimed.

The credit is allowed for wages and benefits paid “to a person who is a New Mexico resident for purposes of the Income Tax Act...” This definition is not limited to people who actually live here. A person can declare themselves a resident for income tax purposes after one day in the state. A significant amount of film industry payroll goes to performers and production personnel who are not in fact residents of the state. Since these people are unlikely to re-spend their income in the state, this reduces the “multiplier” effects of the credit. This is particularly true because so much of the spending needs of these non-residents for things like housing, food, travel, etc. is covered by the film production budget (and also covered by the credit).

TRD:

Estimated Revenue Impact - Detailed Discussion: Because the rate of food and medical hold harmless distributions is currently frozen for some local governments at the rate of their local option GRT taxes in effect on January 1, 2007 (and not their current rate) they can actually receive more revenue than if GRT were imposed on deductible food and medical receipts. To date Albuquerque is the only local government to receive excess revenue. To date Albuquerque has received more than \$6 million extra.

Possible Revenue Impact of Jan 1, 2011 Hold Harmless Rate Freeze Based on Current Local Option GRT Rates*					R or NR**	Fund(s) Affected
FY2011	FY2012	FY2013	FY2014	FY2015		
-	1,900	1,940	2,000	2,060	R	General Fund
-	(1,900)	(1,940)	(2,000)	(2,060)	R	Albuquerque

JAG/svb

F&M Hold Harmless Distribution Loss from Film Credit Offset

Fiscal Year 2012 (thousands)

<u>County</u>		<u>Municipality Cont.</u>		<u>Municipality Cont.</u>	
Bernalillo County	(2,512)	Carrizozo	-	Mesilla	-
Catron County	-	Causey	-	Milan	-
Chaves County	(182)	Chama	-	Moriarty	-
Cibola County	-	Cimarron	-	Mosquero	-
Colfax County	-	Clayton	-	Mountainair	-
Curry County	(139)	Cloudcroft	-	Pecos	-
De Baca County	-	Clovis	(738)	Peralta	-
Dona Ana County	(424)	Columbus	-	Portales	-
Eddy County	(77)	Corona	-	Questa	-
Grant County	(98)	Corrales	-	Raton	-
Guadalupe County	-	Cuba	-	Red River	-
Harding County	-	Deming	-	Reserve	-
Hidalgo County	-	Des Moines	-	Rio Rancho	(829)
Lea County	(73)	Dexter	-	Roswell	(820)
Lincoln County	-	Dora	-	Roy	-
Los Alamos County	-	Eagle Nest	-	Ruidoso	-
Luna County	-	Edgewood	-	Ruidoso Downs	-
McKinley County	(374)	Elephant Butte	-	San Jon	-
Mora County	-	Elida	-	San Ysidro	-
Otero County	(99)	Encino	-	Santa Clara	-
Quay County	-	Espanola	-	Santa Fe	(2,795)
Rio Arriba County	(105)	Estancia	-	Santa Rosa	-
Roosevelt County	-	Eunice	-	Silver City	-
San Juan County	(645)	Farmington	(1,321)	Socorro	-
San Miguel County	(77)	Floyd	-	Springer	-
Sandoval County	(113)	Folsom	-	Sunland Park	-
Santa Fe County	(870)	Fort Sumner	-	Taos	-
Sierra County	-	Gallup	-	Taos Ski Valley	-
Socorro County	-	Grady	-	Tatum	-
Taos County	(182)	Grants	-	Texico	-
Torrance County	-	Grenville	-	Tijeras	-
Union County	-	Hagerman	-	Truth or Consequences	-
Valencia County	(146)	Hatch	-	Tucumcari	-
County Supported Medicaid Fu	(438)	Hobbs	(605)	Tularosa	-
County Total	(6,554)	Hope	-	Vaughn	-
<u>Municipality</u>		House	-	Viriden	-
Alamogordo	(742)	Hurley	-	Wagon Mound	-
Albuquerque	(9,423)	Jal	-	Willard	-
Angel Fire	-	Jemez Springs	-	Williamsburg	-
Anthony	-	Lake Arthur	-	Municipal Total	(19,446)
Artesia	-	Las Cruces	(2,173)	Local Gov Total	(26,000)
Aztec	-	Las Vegas	-		
Bayard	-	Logan	-		
Belen	-	Lordsburg	-		
Bernalillo	-	Los Lunas	-		
Bloomfield	-	Los Ranchos De Albuquerque	-		
Bosque Farms	-	Loving	-		
Capitan	-	Lovington	-		
Carlsbad	-	Magdalena	-		
		Maxwell	-		
		Melrose	-		