F I S C A L   I M P A C T   R E P O R T

SPONSOR Smith **ORIGINAL DATE** 02/20/11 **LAST UPDATED** **HB**

SHORT TITLE Film Production & Educational Retirement **SB** 568

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	($12.6)	($10.0)	Recurring	General Fund
	$30.0	$30.0	Recurring	Educational Retirement Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Education Retirement Board (ERB)

SUMMARY

Synopsis of Bill

Senate Bill 568 caps the film production tax credit at $45 million and, for the period beginning July 1, 2011 and ending June 30, 2016, provides for a distribution of $30 million annually to the Educational Retirement Board Fund.

FISCAL IMPLICATIONS

The fiscal impact estimates reflect a variety of factors that result from Senate Bill 568. First, the Educational Retirement Board (ERB) Fund would benefit from an annual distribution of $30 million for a period of five years. This is largely funded by what would be a decrease in film production tax credits. The Consensus Revenue Estimating Group of the state estimates the film production tax credit to be $65 million in FY11 and then to grow at a rate of 5% per year. By capping the film production tax credit at $45 million, the state would save $23.25 million in FY12, $26.66 million in FY13 and so on. There are estimated feedback effects of the film production credit, however, and assuming that the state receives 25 cents in other revenue for every $1 of the film production credit (see dynamic analysis section below for more details on the 25 cent estimate), that shrinks the gain to $17.44 million in FY12, $19.99 million in FY13, and so on. The net effect to the general fund is this savings minus the additional $30 million in distributions to the ERB fund.

NOTE: there is a scrivener's error in Section 1 in which the term "retiree health care fund" was used rather than "educational retirement fund."

Discussions during the interim in the Legislative Finance Committee have highlighted the need for additional funding of the Educational Retirement Board Fund to remain solvent into the future. A distribution of $30 million annually will provide needed funding to the ERB fund. See more discussion in Performance Implications section below.

Dynamic Analysis.

Two independent studies were performed in the past few years on the net benefits of the film production credit. The most favorable estimate of the net benefits of the film production tax credit program was produced in the Ernst and Young analysis, though even this estimate indicates the film credit is a net cost to the state. The Arrowhead Center's estimate of the effects of the film credit indicates more substantial net costs to the state.

Table 4. General Fund Impacts Using Film Office Credit Estimates:

	Ernst & Young	Arrowhead Center
Direct Film Spending	$ 150.0	$ 150.0
Tax Credit	$ 37.5	$ 37.5
Revenue per $ of Credit	0.94	0.14
Revenue from Film Spending	$ 35.3	$ 5.25
Gain/(Loss) to the State	$ (2.3)	$ (32.25)

* Dollars in Millions

Table 5. General Fund Impacts Using Consensus Revenue Group Credit Estimates:

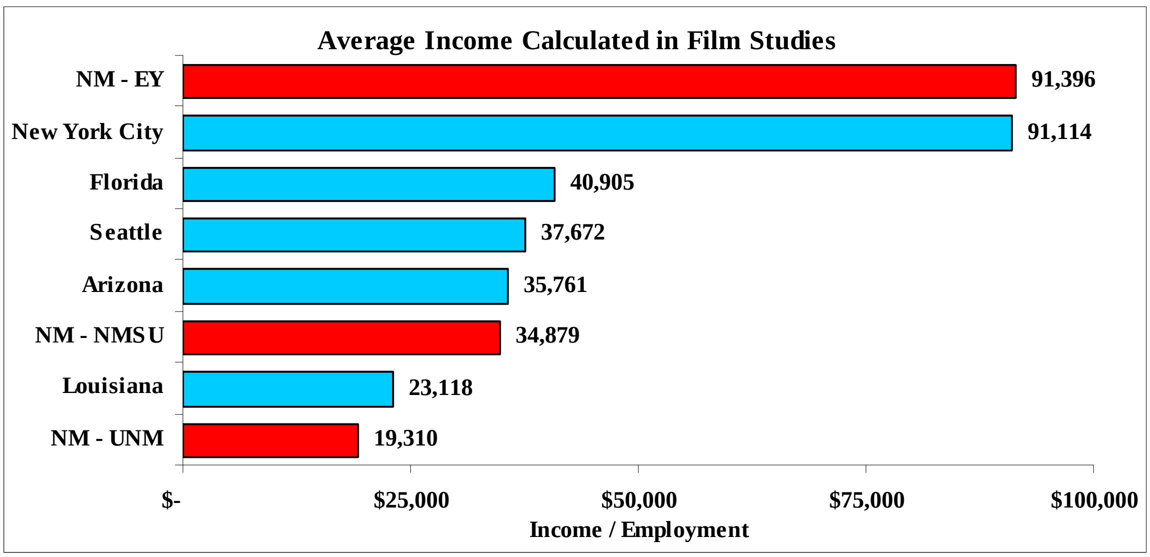
	Ernst & Young	Arrowhead Center
Direct Film Spending	$ 286.0	$ 286.0
Tax Credit	$ 71.5	$ 71.5
Revenue per $ of Credit	0.94	0.14
Revenue from Film Spending	$ 67.2	$ 10.01
Gain/(Loss) to the State	$ (4.3)	$ (61.49)

* Dollars in Millions

The two studies on the economic impacts of the New Mexico film industry are dynamic analyses, which consider both the costs and benefits to the state of the film credit. That is, they attempt to capture the consequences of this state tax policy, taking into consideration all of the potential actions and reactions of the state's economic players. The wide disparity between the two studies' results illustrates the complexity of the analysis and the dependence of the results on the choice of assumptions and methods of analysis. In addition, some important questions were not examined by the studies: how the state's spending policies are affected by the proposed use of tax revenue and whether the new workers employed in the film industry are from New Mexico or from another state.

Due to the significant differences between the Ernst and Young film study and other studies performed throughout the country (including the analysis done by the Arrowhead Center), the New England Public Policy Center at the Federal Reserve Bank of Boston published an analysis of the various studies in April of 2009. The review identifies potential issues with the Ernst and Young studies in New Mexico and New York, including model calibration, lack of a balanced budget assumption, amount of economic activity attributable to the film-credit, questionable wage and salary assumptions, and lack of detail in tourism impacts.

Several other states and cities have studied the film industry's impact on the local economy. The Ernst and Young study shows a much greater impact than any other study. The key differences between the Ernst and Young study and other studies, including the other studies done by NMSU-Arrowhead and UNM-BBER are the assumptions regarding average wages, and the inclusion of capital expenditures and tourism. The chart below shows the assumptions about direct film production activity for various studies. The Ernst and Young study has an average income equivalent to New York City which is inconsistent with other studies.



LFC staff compiled their own analysis of the two studies in 2009. The results of the analysis showed that differences in assumptions and time periods explained the rather wide discrepancies between the two studies. However, the LFC analysis came to the primary conclusion that while the Ernst and Young study overstates the financial return to the state, the Arrowhead Center study most likely understates the financial benefit to the state. The 2009 LFC analysis estimated the benefits to the state of the film production credit at approximately 25 cents on the dollar.

SIGNIFICANT ISSUES

The film production tax credit has increased substantially from when the credit was first offered. Estimates of the credit were on the order of $1 million for FY03 and in FY10, more than $65 million of tax credits were provided to the film industry. Creating a cap for the film production credit provides legislative control over the aggregate size of the credit, in comparison to the current state in which the film production companies control the aggregate size of the credit. Without a cap, if the credit continues growing even at a 5% per year pace, it will hit $100 million by the end of the current decade.

Setting the cap at $45 million will reduce what the state estimates the aggregate credit to be in the coming fiscal years. Senate Bill 568 does not, however, explain the procedure for determining which requests are first eligible for the credit; that is, it does not specify whether the credit will be provided on a “first-come, first-served” basis and if so, how “first-come” will be determined. Would it be on the basis of when the film is produced or when the claim was submitted, for example? If the credit is provided on a “first-come, first-served” basis, this may affect the decision of film production companies to locate in New Mexico. The provision that allows film production companies to be put into a queue in following years may mitigate some of these effects, however.

PERFORMANCE IMPLICATIONS

The $30 million annual distribution (for FY12-FY16) will enable the state to meet its obligation of 0.75% in statute set for FY12, plus provide additional funding. There are other proposals for increasing the contributions to the ERB, including proposals for increasing the employee share, which is currently 1.5% higher due to the employee-employer contribution shift.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB169 places a two million dollar ($2,000,000) cap on production expenditures and a two million dollar ($2,000,000) cap on post production expenditures.

HB455 proposes a seventy five million dollar ($75,000,000) cap and shares the cost with local governments.

With regard to contributions to the ERB fund, this bill relates to HB 133, SB 248, SB 265, and HB 129.

JAG/svb