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

SPONSOR Griego & Egolf **ORIGINAL DATE** 02/01/12 **LAST UPDATED** **HB**

SHORT TITLE Repeal Film Production Tax Credit Cap **SB** 168

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**		
	($11,000-15,000)	($15,000-25,000)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 85

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Film Office

SUMMARY

Synopsis of Bill

Senate Bill 168 amends the Film Production Tax Credit Act to remove the $50 million cap per fiscal year that became law in 2011. This bill also reconciles multiple amendments made to the act during the 2011 Legislative Session.

Effective Date: July 1, 2012

FISCAL IMPLICATIONS

Prior to the imposition of the $50 million cap at the beginning of FY12, film credit claims had fluctuated widely, but had exceeded $50 million per year since FY09. In FY11, credit claims reached almost $100 million, but this was due in part to a rush to beat the effective date of new limits. Even if the cap is removed by this legislation, annual credit claims will likely be limited by another provision of the law passed last year. That provision requires credits related to a particular film to be paid out gradually if the total credit amount for the film exceeds certain thresholds. Given this limitation, credit claims are not likely to increase as quickly as they have historically. However, with even modest growth in New Mexico film production, the amount of credits could easily exceed the $50 million set by current law.

Film Production Tax Credit History

FY08	50	$45,605,856.69
FY09	76	$75,561,982.18
FY10	80	$65,913,012.54
FY11	55	$77,013,052.83

For example, if claims increase only $10 million each year, with 50% of growth arising from productions of less than $2 million, 20% of growth arising from productions between $2 million and $5 million, and 30% of growth arising from productions greater than $5 million, total annual claims are estimated to be $61 million by FY14. Continuing these growth patterns, total estimated claims will be above $100 million by FY18.

These estimates will change depending on the growth in claims with larger impacts accompanying stronger growth. With zero growth, the estimated negative impact is expected to be $11 million to $15 million in FY14 and each subsequent fiscal year.

SIGNIFICANT ISSUES

The film office reports that any changes to the current program may be perceived as uncertainty to the industry, which would result in fewer productions coming to the state and less employment of New Mexicans.

Removing the cap would reduce certainty in estimating revenues and appropriations.

TECHNICAL ISSUES

Section 7-2F-1(D), delete “The date a credit claim is received…for payment by the department” since this will no longer be necessary without a cap.

Transition rules would need to be made for the one-year period in which the cap relief was to be applied. For example; do the new provisions apply to when contracts were signed, or when the expenses were incurred?

OTHER SUBSTANTIVE ISSUES

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

Does the bill meet the Legislative Finance Committee tax policy principles?
1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

SS/svb