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

SPONSOR	Montoya/Gallegos, D.M./ Strickler/ Townsend	**ORIGINAL DATE** **LAST UPDATED**	10/03/16 10/04/16	**HB**	15/aHWMC
SHORT TITLE	Reduce Film Production Tax Credit Cap			**SB**	
				ANALYST	Graeser/Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	**FY18**	**FY19**	**FY20**	**FY21**		
$20,000.0*	$0.0	$0.0	$0.0	$0.0	Nonrecurring	General Fund

Parenthesis ( ) indicate revenue decreases
* Temporary savings – in the long-term, there is no savings; see fiscal implications

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Ways and Means Committee Amendment

The amendment changes the cap to $30 million for FY17 and removes multiple instances of the word "immediately" contained in the bill to potentially alleviate TRD concerns regarding timing.

Synopsis of Original Bill

The bill reduces the aggregate annual cap for all credits paid in FY17 from $50 million to $25 million but leaves the original cap in place for subsequent fiscal years.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

Pursuant to testimony from TRD, the cap affects cash payments, but because the state runs its accounts on an accrual basis, the accrued credits can vary by about $1 million per fiscal year from the existing $50 million annual cap. However, since year-to-date payments have been very small, reducing the cap to $25 million from $50 million will save the general fund the $25 million difference for FY17.

The savings is only temporary, because qualified applicants will still get the entirety of their claims – it will just be at a later date. In effect, the bill borrows money from future years for use in FY17.

The fiscal impact table assumes continued levels of $50 million of new and existing rollover credits claimed each year, but at some point if and when claims drop below $50 million, amounts previously carried forward from the reduction in the cap for FY17 must be paid up to the $50 million cap in future years. The table assumes the reduction in the cap will not reduce film production activity in the state, but if film production is reduced, the savings will not be pushed as far into the future and would be paid back sooner.

TRD provided the following additional fiscal implications.

> If the aggregate cap for this credit is lowered by $25 million for one year, then the timeline to award the existing credit applications will extend into FY19. Thus, no new applications could be considered until FY19, at the earliest. The delay could push existing applications into FY20. Application for this credit requires that production is closed. Therefore, the reduction in the aggregate cap could eliminate any incentive for film & television production companies to work in New Mexico in the short term.

SIGNIFICANT ISSUES

Even at this late date, there is still controversy whether the film production tax credit returns more to the state and local governments in additional tax revenue than the static cost of the credit paid by the general fund. The January 2016 *LFC Volume III* contains a cost per job created chart that estimates the cost of the film credit at nearly $29 thousand per job (direct cost*), annually. In order to create and retain an average job in the film industry, the state must pay that amount through the credit every year or risk potentially losing the job. Looking long-term at the total cost for a film industry job, it would be a multiple of the $29 thousand. For example, the Job Training Incentive Program (JTIP) is estimated in the same document to have a one-time cost of $5,600. If that job lasts four years, the cost for that program to create the job is still $5,600. However, to keep a film job for four years, the cost is $115.6 thousand.

> * Note the *LFC Volume III* cost per job chart lists only direct costs without considering indirect and induced effects as the vast majority of the job creation programs and tax expenditures on the list do not have associated studies estimating indirect and induced effects. Additionally, different assumptions and methodologies can result in substantially different cost estimates, so considering direct costs only is currently the best way to achieve an apples-to-apples comparison.

The first phase of a professional cost-benefit study, entitled "New Mexico Film Production Tax Incentive Study July 21, 2014," [1] indicates overall net benefits to the state but a net reduction in benefit to the general fund.

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[1] http://www.nmfilm.com/uploads/files/Phase%201%20Report%20-%20Final%20Report%20(July%2021,%202014).pdf

TRD provided the following additional issues.

> The Tax Administration Act Sections 7-1-1 *et seq*. requires the department to be "…timely and expeditious…" in dealing with taxpayers. Lowering the cap to $25 million for one year creates a timeliness concern for the department. The queue for refundable film credits is filled on a first come – first served basis. If the queue is filled before the end of the fiscal year, then the applications from taxpayers whose claim exceeds the statutory cap cannot be duly processed until the fiscal year end close. In general, fiscal year end close occurs 60 days after the end of the fiscal year – on or about September 1st. While the applications will be processed by the department in as timely a manner as possible, the cap and queue significantly slows down the processing function as a matter of law.

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

LG & JC/al