FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Scott/ Townsend/ Nibert/ Pettigrew	**ORIGINAL DATE**	2/6/2023
SHORT TITLE	Repeal Film Production Tax Credit	**BILL NUMBER**	House Bill 237
		ANALYST	Torres, I.

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
-	-	$90,000-$140,000	$70,000-$130,000	$70,000-$130,000	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

<u>Responses Received From</u>
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of House Bill 237

House bill 237 (HB237) repeals the Film Production Tax Credit Act and allows a temporary provision for taxpayers that meet the eligibility requirements and apply for the tax credits allowed by that act prior to July 1, 2023 to still apply for and claim the tax credit approved by the Taxation and Revenue Department. This bill also allows for anyone with a credit that has any credit left to be claimed to be able to claim that credit based on the law prior to the repeal.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

The LFC and Taxation and Revenue Department (TRD) employed the film credit forecast from the Economic Development Department (EDD) and the Consensus Revenue Estimating Group (CREG) forecast for film credits assumed in the general fund forecast for December 2022. Finally, TRD used outstanding film credits approved but not yet claimed. Based on these estimates, TRD assumes that there is no fiscal impact for FY24 as those would represent claims for projects that have been approved prior to the effective date of the bill due to the lag producing projects and then subsequently applying and claiming the credit. In addition, portions of the carry-forward eligible to be claimed would impact FY24. For fiscal years 2025 through 2027, a range is assumed due to the uncertainty of film partner projects (see Other issues.) The lower end of the range assumes film partners would continue to be eligible for their credits given their 10-year commitment with the state, while the upper end of the range assumes they would not be eligible. In addition, the impact assumes the continued carry-forward claims as taxpayers have tax liability to apply against.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources.

SIGNIFICANT ISSUES

The Taxation and Revenue Department (TRD):

> Under Section 7-2F-12 NMSA 1978, New Mexico film partners who are defined as having made a 10 year or more commitment by purchasing or entering a 10-year contract to lease a qualified production facility are excluded from the $110 million per year film cap. Production for partners had to start after July 1, 2019. The state has approved, and taxpayers have claimed, credits within this category. It is unclear, given these taxpayers investment in the state if they would continue to be eligible for the credit for projects after the effective date of this bill. Subsection A on the first page, states '(i)f a taxpayer meets the eligibility requirements to apply for and claim a tax credit being repealed by this act for a period prior to the effective date of this act.' There could possibly be legal issues if these companies are not able to recoup their long-range investments in the event they cannot continue claiming credits.
>
> In Section 7-2F-3 NMSA 1978, the purposes and goals of the Film Production Tax Credit are laid out and can be summarized as building a permanent film industry in the state, diversifying the economy and growing the job base. The repeal of this credit will potentially erode the film industry's contribution to New Mexico's economic base if film productions seek other states with lower costs of production thanks in part to tax incentives. The state has made a significant investment to build the film industry. The state could lose the bulk of return on that investment if the film tax credit is repealed. The reduction of the film industry will have a negative impact on the incomes of various economic agents in the state of New Mexico and negatively impact General Fund revenues via loss of personal income taxes, gross receipts tax, etc. which would offset the direct impact of increased corporate income tax revenue above.
>
> New Mexico competes with other states to attract film productions. The National Conference of State Legislators reports that as of May 2022, 35 states offer tax incentives for film production.
>
> While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport with generally with

the best tax policy.

The Economic Development Department notes:

This bill would decimate the film industry in our state resulting in the almost immediate loss of employment for approximately 8,000 New Mexico residents. Additionally, the median wage for a New Mexico resident working in the film industry in our state is $32/hr. almost doubling the approximately $18/hr. median wage for all other New Mexico industries. Many of the film industry jobs provide health benefits and retirement which could be difficult to find in other jobs. The bill would significantly reduce the ability for people to earn the higher wage which could lead to residents leaving New Mexico to find work in the film industry elsewhere or stay in New Mexico and find work in another industry with the possibility of earning less money. Businesses that work with the film industry will have to leave the state or find other ways to supplement the loss of income.

Production companies from all over the world have spent approximately $1.5 billion dollars in our state in the last two fiscal years. The spend in rural communities has increased to $50 million in FY22 with estimated spends increasing year after year. The greatest majority, if not all, of this money spent by the film industry would simply go to other states.

New Mexico Gross receipts taxes of approximately $86.14 million were paid by the film industry during FY20-FY22. Enacting this bill would result in the almost complete loss of any additional film industry GRT being captured.

It is currently estimated by the Economic Development Department that ~$15 billion in direct spending in the state will occur from this industry over the next 10 years. It is likely that nearly all of this spend, along with all the potential associated economic benefits would be eliminated were this bill to be enacted. A study conducted by SPI Olsburg and the New Mexico Film Office in 2022 found that 92 percent of the film production spending in the state was directly due this tax incentive, so therefore if this bill were to be enacted, it is expected that only 8 percent of this industry would remain. While the tax credits, of up to $110 million per year for Non Film Partners, and an estimated $43 million per year from Film Partners would not be given, all of the GRT and PIT collected from this spending would also not be received by the state. It is estimated by the Economic Development Department that the ROI of the film tax credit is $7.83. The economic return on investment (ROI) is a measure of how much economic value is created per $1 of investment in tax credits by the state. The cost to the state is then estimated to be total value of the tax credits minus the additional state and local taxes received as a result of the uplift in activity. All of this economic activity, including what is directly from the industry, as well as what is indirectly created into other industries would be lost.

The film industry of New Mexico will dissipate should this bill be enacted. Further, the public-private partnerships with Netflix, NBCUniversal and 828 Studios would be jeopardized. Roughly 8,000 New Mexicans working in this high-paying industry could be out of work and the state would not see hundreds of millions of dollars, in one year, of outside money being spent in our communities. One of the highest paying industries in New Mexico, with a median wage of $32/hr in FY23 would suffer and decline. Further, the New Mexico Media Academy, whereby hundreds of students could be fast-tracked into high-paying jobs in this currently in-demand industry, would train younger generations of New Mexicans who would have to seek work in other states to utilize their newly learned skills and advance in their careers.

ADMINISTRATIVE IMPLICATIONS

TRD will need to make information system changes and update forms, instructions, and publications. This bill will have a low impact on TRD's Information Technology Division (ITD), approximately 300 hours or about 2 months for an estimated staff workload cost of $16,662. The Revenue Processing Division (RPD) of TRD will experience a reduction of the management of credits with the repeal of the film credit. While the number of film credit taxpayers is relatively low compared to other credits, the management effort is substantially larger than other credits. The impact will enable about ½ full-time equivalent staff to extend efforts to the administration of the other business credits. The Audit and Compliance Division (ACD) would have eight employees assigned to film credit review that can be converted to other audit functions. This would result in their job duties generating assessments which lead to collecting tax liability and increasing revenue.

IT/al/ne