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

SPONSOR SCORC **ORIGINAL DATE** 02/04/13 **LAST UPDATED** 02/25/13 **HB**

SHORT TITLE Film Production Tax Credit Increase **SB** 468/SCORCS

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
	Negative				Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicate to HB 379

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)-Original Bill

No Response Received From
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

The Senate Corporations and Transportation Committee substitute for Senate Bill 468 amends Section 7-2F-1 NMSA 1978 to allow for an additional five percent film credit for television productions or projects with a total budget of less than $30 million that shoots at least ten days in New Mexico. Additionally, language is added to allow for the carry-over of any amounts under the fifty million dollar annual limit not expended in a fiscal year, and these amounts will not count toward a subsequent years' annual limitation. Language added to the section also allows for a film production company to sell, transfer, or assign all or a portion of the film production tax credit to another entity. Section 7-2F-2 NMSA 1978, is amended to alter the definitions of "direct production expenditure" and "physical presence." It also tightens the income tax provisions on performing artists by requiring withholding when the artist has an equity interest in the production. The bill also excludes expenditures from qualifying for the credit that are supplied by nonresidents whether hired or subcontracted by an in-state vendor.

Effective Date: Emergency Clause

FISCAL IMPLICATIONS

The bill mandates that the film credit to be constrained by the $50 million annual cap. However, the richer credits for television and the carry-over virtually guarantee that the credit would be greater than otherwise over a multiyear period. For example, there is some indication that the credit will not be fully expended in FY13 which will result in increased General Fund revenue of $12 million. Given the provisions in this substitute, the FY 14 cap will be increased from $50 million to $62 million and General Fund revenue will decrease by $12 million.

The TRD researched the share of total approved and pending approval New Mexico film credits since FY 11 that can be identified as relating to eligible television series. On that basis, it is estimated that approximately 20 percent of the film credits approved or pending approval since FY11 are related to television series that could qualify for the enhanced credit. The New Mexico Film Office and the Consensus Revenue Estimating Group are forecasting that the $50 million cap will be reached in each of the forecast period fiscal years. This would imply that approximately $10 million of the total credits earned (determined based on 25 percent of production expense), or an addition $2 million in film credits would be added to these television productions as a result of the enhanced credit opportunity. However, the $50 million cap would still constrain the film credits offered, so no additional fiscal impact is forecast.

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. The statutory criteria for tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

Table 1: SUMMARY OF FILM CREDITS — MATRIX OF YEAR AWARDED VERSUS YEAR CREDIT DISTRIBUTED

FY FILM CREDIT AWARD APPROVED	FY FILM CREDIT DISTRIBUTED (in thousands of dollars)										
	FY03	**FY04**	**FY05**	**FY06**	**FY07**	**FY08**	**FY09**	**FY10**	**FY11**	**FY12**	**Grand Total**
FY03	$1,116.2	$103.3									$1,219.5
FY04		$1,633.3	$1,771.6								$3,405.0
FY05			$333.0	$1,446.9	$285.5						$2,065.3
FY06				$4,274.2	$4,320.4	$6.3					$8,600.8
FY07					$13,917.8	$2,250.5	$477.2				$16,645.6
FY08						$40,312.5	$5,248.1	$6.4			$45,567.1
FY09							$76,336.8	$86.6		$1.1	$76,424.4
FY10								$45,274.5	$20,632.6	$0.2	$65,907.3
FY11									$75,559.6	$1,411.5	$76,971.2
FY12										$8,081.6	$8,081.6
Grand Total	$1,116.2	$1,736.7	$2,104.6	$5,721.1	$18,523.7	$42,569.3	$82,062.1	$45,367.4	$96,192.3	$9,494.5	$304,887.8

PERFORMANCE IMPLICATIONS

The film office will reports that it will require more information from productions submitting for the credit to confirm the proposed in-state and withholding requirements have been met.

TECHNICAL ISSUES

Some have argued that that the bill attempts to reach back into FY12. If this interpretation was correct, the bill would have a negative fiscal impact of over $40 million in FY13.

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/blm:svb