FISCAL IMPACT REPORT

		ORIGINAL DATE	2/16/15		
SPONSOR	Egolf	**LAST UPDATED**	3/16/15	**HB**	325
SHORT TITLE	Remove Some TV Shows From Film Tax Credit Cap			**SB**	
				ANALYST	Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
0	($15,800)	($19,200)	($22,500)	($25,100)	Recurring	General Fund

(Parenthesis ( ) indicate revenue decreases

The fiscal impacts reported in this table is the simple average of an estimate provided by TRD and an independent estimate provided by LFC.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department/Film Office
Taxation and Revenue Department (TRD)
Office of the State Auditor (OSA)

SUMMARY

Synopsis of Bill

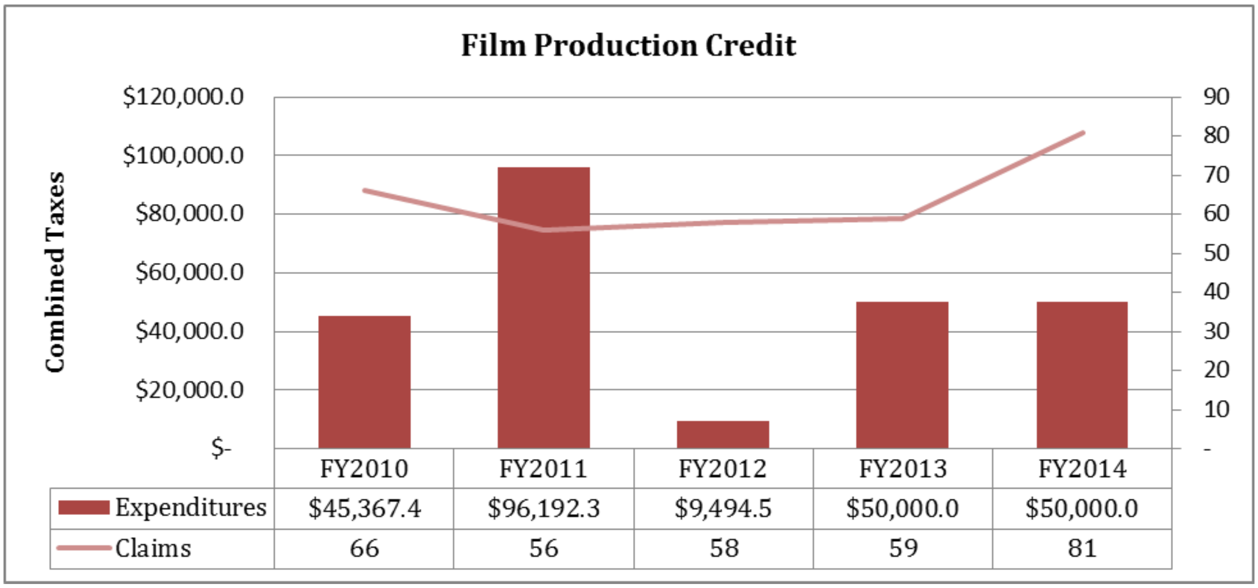
House Bill 325 allows certain TV series unlimited access to the 30 percent film production credit. Presumably the relaxation of the $50 million cap for TV series is for the same productions that qualify for the enhanced 5 percent tax credit enacted in 2013 (CS/HB641 – Laws 2013, Chapter 160, section 5). The phased payments of the 30 percent film production contained in 7-2F-1, G NMSA 1978 are not changed in this bill.

The effective date of the act is July 1, 2015.

FISCAL IMPLICATIONS

In its analysis of HB 379 of the 2013 session, TRD estimated that series TV earned approximately 20 percent of total film production credits for the period from FY 2011 through 2013. However, in its analysis of this bill, TRD notes:

“As reported in the 2014 Tax Expenditure Report, the $50 million cap has been fully subscribed since implemented. Before the cap was implemented the film credit cost the state $96 million in FY11. The TTRD estimated at one time 20 percent of film credits were for television series but by FY14 it increased to about 40 percent. In addition, the film credit for TV series was enhanced from 25 percent to 30 percent in 2013, making the film credit more appealing to the TV industry. The film credit is capped so this implies that the credit cost could be as low as $20 million for TV series. Without a cap on TV series credits, applications for this credit could easily exceed this amount, but it is unknown how many more TV series will be attracted to the state by removing them from the film cap. TRD has assumed that TV Series claims will grow at 15 percent per year for this analysis but as seen with film the impact could easily double in one year."



Based on this analysis, TRD estimates the following fiscal impacts:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2015	**FY2016**	**FY2017**	**FY2018**	**FY2019**		
0	(26,500)	(30,400)	(35,000)	(40,200)	R	General Fund

This was the heyday of "Breaking Bad." "Longmire" began production in 2012. "Call Saul," recently set a cable TV record for viewers for a series premier. For the purpose of this estimate, LFC makes three assumptions:

- While quite uncertain, applying the 20 percent historical experience to an estimate of the future production credit claims is reasonable for this purpose;
- 20 percent of $50 million in tax credits, or $10 million will be claimed by qualifying TV series. This amount will be subject to a deferred payment schedule – with the half the claims between $2 million and $5 million (two equal payments in two fiscal years) and half over $5 million (three equal payments in three fiscal years). This will limit the enhanced payment in the 2016 fiscal year, but by FY 2017, the full amount of the TV series credits will be realized against the General Fund; and
- The non-series credit claims will continue to exceed the $50 million credit cap.

Based on these assumptions, LFC estimates a fiscal impact as follows:

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
0	($5,000.0)	($8,000.0)	($10,000.0)	($10,000.0)	Recurring	General Fund

The impact reported in the table is the simple average of these two independent estimates.

Releasing TV series from the cap while retaining the deferred payments may serve to moderate the General Fund revenue impact. However, previous experience may also indicate that there can be uncontrolled credit claims.

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

FY FILM CREDIT DISTRIBUTED

(in thousands of dollars)

FY FILM CREDIT AWARD APPROVED	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

Note in the accompanying table that credit claim approvals in FY08, FY09 and FY10 exceeded the subsequently enacted $50 million production tax credit cap.

This bill may be counter to the LFC tax policy principles of adequacy, efficiency, accountability and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

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 a 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.

SIGNIFICANT ISSUES

TRD notes the following concern and issue, "… removing the cap on TV series credits may have the appearance of favoring one industry over another industry which goes against the tax policy principle of equity. Nonetheless, by removing TV series from the $50 million cap, the additional cap space could be used to attract larger film productions that currently cannot claim the credit due to the use of the current cap space. The $50 million cap on the film credit was implemented due to the unintended high cost to the state of the credits. Not placing a cap on TV series credits could have a similar result."

The following data were obtained from the Film Office's website:

2010 Breaking Bad S3
2011 Breaking Bad S4
2012 Breaking Bad S5a
2013 Breaking Bad S5b
2010 Crash Season 2
2010 In Plain Sight S3
2011 In Plain Sight S4
2012 In Plain Sight S5
2014 Killer Women S1
2012 Longmire S1
2013 Longmire S2
2014 Longmire S3
2014 Manhattan S1
2014 Night Shift S1
2010 Scoundrels
2010 The Odds

The data are listed by title, but not direct spending. The Film Office does maintain the database of amounts available pursuant to the cap and the amounts that will be paid in future fiscal years.

In July, 2014, the Film Office released a contracted study prepared by MNP LLC as a phase 1 study of the effectiveness of the Film Production Tax Credit. The study is entitled, "New Mexico Film Production Tax Incentive Study" and can be viewed at http://www.nmfilm.com/uploads/files/Phase%201%20Report%20-%20Final%20Report%20%28July%2021,%202014%29.pdf. The conclusions of this Phase 1 study are included as an appendix to this report.

Based on this study, the film production tax credit does not return as much in state and local taxes as it costs the general fund in credits paid. On the other hand, the cost per FTE job of $8,519 is quite low relative to other economic development tax credits, for which the cost can easily exceed $20,000 per job. Other states report granting tax credits for which the cost per job has exceeded $100,000.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is currently being met since TRD is reporting annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose. EDD/FO has contracted and published the first phase of a four-phase report detailing the economic and fiscal impacts of this tax credit.

TECHNICAL ISSUES

Presumably the “TV series” that qualify for the enhanced 5 percent tax credit enacted in 2013 (CS/HB641 – Laws 2013, Chapter 160, section 5) are the same productions that are released in this bill from the provisions of the $50 million cap. However, there are some restrictions or qualifications in 7-2F-1 [C] NMSA 1978 that may not apply to the release from the cap (7-2F-1 [E] NMSA 1978). These include “productions intended for commercial distribution with an order for at least six episodes in a single season provided that the budget per episode is $50,000…” or “expenditures that are directly attributable to the wages and fringe benefits paid to a New Mexico resident directly employed in an industry crew position …”

It may be appropriate to define “TV series” for both purposes in the section.

OTHER SUBSTANTIVE ISSUES

The office of the state auditor notes that this modification to the film production tax credit may need additional accountability provisions over and above the existing reporting provisions. However, EDD/FO has recently contracted with a vendor to analyze the costs and benefits of the film production tax credit.

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Appendix A: MNP study conclusions:

http://www.nmfilm.com/uploads/files/Phase%201%20Report%20-%20Final%20Report%20%28July%2021,%202014%29.pdf.

The main conclusions of Phase 1 are:

- New Mexico has become a well-established and important production location for film and television.
- New Mexico is viewed favorably by the film and television industry as a production location as a result of its film production tax incentive and its other positive attributes.
- The increased tax incentives for extended television series production are viewed favorably by the industry and are believed to attract additional productions.
- The film and television industry creates economic impacts through production spending, infrastructure spending, and film induced tourism. In this report we have assessed only production spending impacts, with the impacts of infrastructure spending and film induced tourism scheduled to be assessed in subsequent phases of the study. The estimated economic impacts from production spending between fiscal years 2010 through 2014 (Q1 through Q3) are:
    - o Total economic output generated from production spending alone is estimated at $1.53 billion. Direct output from production activity is estimated at $936.0 million. In addition, production activity generated a further $591.5 million in indirect and induced spending.
    - o Total GSP generated from production spending is estimated at $968.9 million. Direct GSP from production activity is estimated at $740.2 million. Film and television production activity generated an additional $228.7 million in GDP through indirect and induced impacts.
    - o Total employment created from production spending is estimated at 15,848 full-time equivalent employee (FTE) positions. Direct employment generated from production activity is estimated at 8,851. Employment generated through indirect and induced spending supported an additional 6,997 FTE positions.
    - o Total State and local taxes generated from production spending are estimated at $103.6 million. This includes $79.1 million to the State government and $24.5 million to local governments. o Film production activity has produced an estimated $0.43 in state and local taxes ($0.33 in state taxes and $0.10 in local taxes) for each dollar in production incentive granted.
    - o Each net dollar of incentive was associated with approximately $7.18 in new GSP (from film production).
    - o Each net million dollars of incentive was associated with approximately 117 new FTE jobs (from film production).
    - o The net cost per FTE job created from film production was approximately $8,519.