

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/18

SPONSOR Campos LAST UPDATED _____ HB _____

SHORT TITLE Increase Film Tax Credit Aggregate Cap SB 257

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
\$0.0	(\$10,000.0)	(\$10,000.0)	(\$10,000.0)	(\$10,000.0)	Recurring	General Fund

Parenthesis () indicate revenue decreases

Conflicts with HB113

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

Senate Bill 257 increases the aggregate film credit cap by \$10 million from the current \$50 million cap to \$60 million beginning in FY19.

There is no effective date of this bill, but the provisions of the bill apply to FY19 and subsequent fiscal years.

FISCAL IMPLICATIONS

This bill would not impact FY18 but is assumed to impact FY19 and all years thereafter by the full amount of the increase in the cap. This is because the Taxation and Revenue Department's (TRD) *2016 Tax Expenditure Report* shows payments of \$50 million in every year from FY13 through FY16, and TRD also reported FY17 showed record industry expenditure levels.

LFC analysis shows that, under existing statute, if expenditure and credit levels continue at the FY17 level, New Mexico will begin to amass huge future liabilities, significantly extending the timeframe over which those liabilities would be paid. If this liability continues to grow at a rapid pace, it could also cause the industry to slow its growth or pull back due to concerns over timing for repayment. This is a significant issue that should be discussed in detail at the appropriate interim committee(s) and possibly addressed through any desired legislation in the next 60-day session.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, 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

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 2018 *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 \$4 million. If that job lasts four years, the cost for that program to create the job is still \$4 million. 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 – while imperfect – is currently the best way to achieve an apples-to-apples comparison.

TRD provided the following analysis.

The film and television tax credit refunds up to of 30 percent of expenditures of film and television productions made in New Mexico. Under current law, the amount of subsidy to the industry is capped at \$50 million. This tax credit is one of the largest tax expenditures in present law. The state increment of the gross receipts tax is 5.125 percent; thus, for the state to generate \$50 million in gross receipts tax revenues, the film industry would have to generate almost \$1 billion of taxable gross receipts. Film statistics, beginning in FY03, indicate that the largest direct spend by the film industry was \$506 million during FY17. Thus, New Mexico has never recouped sufficient tax revenues to fund this tax credit on a revenue neutral basis.

PERFORMANCE IMPLICATIONS

The LFC tax policy principle of accountability is met with the existing annual reporting provided and detailed studies evaluating the effectiveness and other attributes of the credit.

CONFLICT

This bill conflicts with HB113, which removes the film credit cap for projects after January 1, 2018.

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

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted:** The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted:** The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent:** The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable:** The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective:** The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✘	
Targeted Clearly stated purpose Long-term goals Measurable targets	? ✘ ✘	Not explicitly stated
Transparent	✔	
Accountable Public analysis Expiration date	✔ ✘	Multiple studies have been performed
Effective Fulfills stated purpose Passes “but for” test	✔ ✔	The incentive is effective in attracting film productions to the state and generating local employment in the industry This incentive is one of only a few that clearly passes the “but for” test – the film productions and jobs would largely not exist but for the existence of the incentive
Efficient	?	The efficiency of the credit is debatable
Key: ✔ Met ✘ Not Met ? Unclear		

JC/jle/al