GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: Senate Bill 1213 (Second Edition)

SHORT TITLE: Film Incentive Changes.

SPONSOR(S):

FISCAL IMPACT ($ MILLION)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2006-07	**FY 2007-08**	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**
REVENUES:					
State General Fund	-7.7	-8.1	-8.5	-9.0	-9.5
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2006.

BACKGROUND INFORMATION: The 2005 General Assembly enacted legislation that allows an income tax credit for 15% of the qualifying production expenses of film and television production companies that spend at least $250,000 on a production in North Carolina. The credit is limited to $7.5 million per feature film and is refundable in cases where the credit exceeds tax liability. Finally, the bill disallowed the credit for expenses incurred for compensation paid to an "individual" in excess of $1 million.

To prevent a doubling up of the tax benefit on the same expenses, the legislation required that companies add back to taxable income the amount of the expenses for which the credit was claimed. However, corporate income tax law already has a general provision requiring taxpayers to add back the amount of a credit to net taxable income. Thus, having an add back for the credit plus an add back for the expense base over-adjusts for the value of the film industry tax credit.

BILL SUMMARY: (1) Makes an exception to the general tax law add back rule for the film industry credit. (2) Clarifies that the expense limit of $1 million for the salary of an employee applies to a production company that hires an actor receiving a salary from another company ("loan-out company").

ASSUMPTIONS AND METHODOLOGY: During the 2005 discussions on the original credit the Department of Commerce provided North Carolina actual expenditure data on five different types of film and television productions that have taken place in recent years, including: (1) cable movie; (2) small feature film; (3) medium feature; (4) episodic television; and (5) television commercial. The expenditure data was broken down into a number of categories. In addition, the Department's material simulated the potential number of productions for each category for January 2005-June 2007. The simulation was based on discussions with the state film office and other industry specialists in the State regarding recent experience and expectations about the next couple of years.

The Department of Commerce, based on new discussions with regional film representatives in the state and the Director of the State Film Office, has revised their estimate of production activity for the industry for the 2006 tax year. The calculations set out below used the revised activity level to calculate the current law credit cost

	($ Million)
Eligible Spending	$112.00
15% Tax Credit Cost	16.80
Less: Credit Add-Back	-1.16*
Tentative Net Credit Cost	$15.64
Less: Expense Base Add-Back	-7.73**
Final Net Credit Cost	$7.91

*Credit amount multiplied by 6.9% corporate income tax rate.
**Expense base multiplied by 6.9% corporate income tax rate.

The annual impact of the bill for the 2006 tax year is equal to the "Expense Base Add Back" number shown in the above calculation. For future years, the credit is expected to grow at the same rate as state personal income. The forecast for this variable comes from Moody's Economy.com, a nationwide forecasting firm used by Fiscal Research for national and state economic forecasts. For the purpose of this analysis, it is assumed that the tax year impact of the proposed change matches up with the fiscal year ending six months after the end of the tax year. Thus, the full impact of the change for the 2006 tax year would be in the 2006-07 fiscal year. This rationale was based on the fact that the small amount of the credit would suggest that taxpayers are unlikely to reduce their quarterly estimated payments sent in during the tax year. Instead, the relief will be taken in the form of lower final income tax payments or higher tax refunds, both of which occur in the months just following the end of the tax year.

SOURCES OF DATA: North Carolina Department of Commerce

TECHNICAL CONSIDERATIONS: None

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