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FISCAL IMPACT REPORT

ORIGINAL DATE 2/27/09
LAST UPDATED 3/10/09 HB _____

SPONSOR Beffort

SHORT TITLE Study Investment In Small Independent Films SJM 30/aSRC/aSCORC

ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI*			Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications below.

SOURCES OF INFORMATION

LFC Files

Responses Received From
State Investment Council (SIC)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment changes the nature of the study to be conducted by replacing the charge to study potential benefit with the charge to identify the merit of, state investment in small budget film projects. The required report is now a progress report rather than a report of findings and recommendations. The amendment further adds a resolution that the New Mexico film division of the economic development department and the state investment officer identify the potential benefit to local economies of investing in local film development

Synopsis of SRC Amendment

The Senate Rules Committee amendment replaces the first two reasons for conducting the study with reasons focused on the economic benefits provided by investment in the film industry in New Mexico. The amendment further removes the study requirement of guidelines for specific dollar amount projects.

Synopsis of Original Bill

Senate Joint Memorial 30 requests the New Mexico Film Division of the Economic Development Department, in collaboration with the State Investment Officer, to study the

potential benefit of establishing a fund to promote, invest in and finance small, independent films produced in New Mexico. The study is to:

- Identify guidelines for investments in and distributions from the fund for single projects with budget that do not exceed \$2,000,000 or multiple, related projects with budgets that do not exceed \$5,000,000.
- Consider the potential for using a program manager to evaluate and make recommendations for funding of these films that does not utilize state dollars but that is funded from the proceeds of the funded investments.
- Identify how current film investment guidelines could be adapted to preserve protections from risk for the state while promoting investments in small, independent and low budget projects

The report is to be presented to the appropriate interim committee by November 1, 2009.

FISCAL IMPLICATIONS

The NFI designation is based on the SCORC amendment changing the nature of the requirements of the joint memorial and assumes the SIC not engaging external expertise to assess the current marketplace and how it relates to NM's statutory requirements for film investment. Should a 3rd party assessment of the viability of small films in the marketplace be necessary, that assessment would result in fiscal impact.

SIGNIFICANT ISSUES

The SIC notes in regard to the amended joint memorial that in the SIC's opinion this effort is duplicative to a great extent of ongoing practices being carried out by the state agencies involved, and we are skeptical that any findings these agencies have will be found as acceptable by New Mexico's independent filmmakers who are looking for state investment.

New Mexico has made a significant investment in developing a film media industry through the state investment council's film investment program, tax rebates and construction bonds, but this investment has not benefited the small and independent media business,

The New Mexico film investment program lacks guidelines to grant access to investment funds for micro- and low-budget film producers in the state.

According to the on-line research service *Screen Finance*, the market for small and independent films grew fifty-nine percent between 1991 and 2000, fueling increased production and a proliferation of independent film production companies.

According to *Price Waterhouse Coopers*, ancillary markets, such as the home video market and high definition and internet-based television, have grown over two hundred percent over the last decade.

Nearly seventy percent of all motion pictures are independently produced, and many of these films are micro- budget films.

The profit potential of independently produced, low-budget films makes them attractive to distribution and sales agent companies.

Small, independently produced films through such media as digital video discs, digital satellite cable, pay-per-view and network television offer additional markets with minimal risks for investors and producers.

According to the SIC:

There are many reasons independent filmmakers have had difficulties qualifying for film production investment loans, but the primary reasons are two: the SIC requires all the films it invests in to

- Have an advance film distribution contract in place prior to receiving SIC investment
- Provide a guarantee from a qualified corporate entity with an investment grade credit rating, or an irrevocable letter of credit issued by a US based bank with at least an A credit rating

These statutory requirements have done a good job mitigating risk to the state's funds, while also accomplishing the original intent of the program, which was job and industry creation through an overarching package of film incentives. On the other hand, these requirements – while protecting the Permanent Funds from loss - have limited the access to the program by small filmmakers, who generally cannot guarantee the state's principal or the sale and distribution of their own product.

SJM 30 cites information from Screen Finance and Price Waterhouse Coopers publications which appear to be dated, or incomplete, and do not accurately reflect the abysmal state of the independent filmmaking marketplace in 2009. Direct to DVD markets are actually failing, with contraction of market sales in 2007 and 2008; international marketplaces have also tightened due to the current economic downturn; and the internet – including MySpace, YouTube, and Hulu - has thus far proved to be inadequate in generating meaningful revenues for independent filmmakers. While a handful of independent filmmakers have had success selling projects to distributors at Sundance and similar film festivals, sale prices are often below cost, and there remain hundreds – often thousands - of films unseen and unsold for every one purchased.

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