

AN ACT

RELATING TO STATE FUNDS; PERMITTING THE STATE INVESTMENT OFFICER TO LOAN TO FILM PRODUCTION COMPANIES A PORTION OF EXPECTED FILM PRODUCTION TAX CREDITS; ELIMINATING STATE INVESTMENT OFFICER AUTHORITY TO PURCHASE FILM PRODUCTION TAX CREDITS; PROVIDING FOR INTERCEPTION OF TAX REFUNDS TO AID IN REPAYMENT TO THE STATE INVESTMENT OFFICER OF CERTAIN LOANS TO FILM PRODUCTION COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2C-2 NMSA 1978 (being Laws 1985, Chapter 106, Section 2, as amended) is amended to read:

"7-2C-2. PURPOSE.--

A. The purpose of the Tax Refund Intercept Program Act is to comply with state and federal law:

(1) by enhancing the enforcement of child support and medical support obligations;

(2) to aid collection of outstanding debts owed for overpayment of public assistance and overissuance of food stamps and overpayment of unemployment compensation benefits and nonpayment of contributions or payments in lieu of contributions or other amounts due under the Unemployment Compensation Law;

(3) to promote repayment of educational loans;

(4) to aid collection of fines, fees and costs owed to the district, magistrate and municipal courts;

(5) to aid collection of fines, fees and costs owed to the Bernalillo county metropolitan court; and

(6) to aid in the payment to the state investment officer of film production tax credit amounts owed to the state investment officer due to a loan made against the credit pursuant to Subsection D of Section 7-27-5.26 NMSA 1978.

B. Efforts to accomplish the purpose of the Tax Refund Intercept Program Act may be enhanced by establishing a system to collect debts, in particular, outstanding child support obligations, educational loans, amounts due under the Unemployment Compensation Law, fines, fees and costs owed to the district, magistrate and municipal courts, film production tax credit amounts owed to the state investment officer and fines, fees and costs owed to the Bernalillo county metropolitan court, by setting off the amount of such debts against the state income tax refunds or film production tax credit amounts due the debtors."

Section 2. Section 7-27-5.26 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 6, Section 2, as amended) is amended to read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW MEXICO.--

A. No more than two and one-half percent of the market value of the severance tax permanent fund may be invested in New Mexico film private equity funds or a New Mexico film project under this section.

B. If an investment is made under this section, not more than seven million five hundred thousand dollars (\$7,500,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico film private equity fund or any one New Mexico film project.

C. The state investment officer shall make investments pursuant to this section only upon approval of the state investment council after a review by the private equity investment advisory committee and the New Mexico film division of the economic development department. The state investment officer may make debt or equity investments pursuant to this section only in New Mexico film projects or New Mexico film private equity funds that invest only in film projects that:

(1) are filmed wholly or substantially in New Mexico;

(2) have shown to the satisfaction of the New Mexico film division that a distribution contract is in place with a reputable distribution company;

(3) have agreed that, while filming in New Mexico, a majority of the production crew will be

New Mexico residents;

(4) have posted a completion bond that has been approved by the New Mexico film division; provided that a completion bond shall not be required if the fund or project is guaranteed pursuant to Paragraph (5) of this subsection; and

(5) have obtained a full, unconditional and irrevocable guarantee of repayment of the invested amount in favor of the severance tax permanent fund:

(a) from an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(b) from a substantial subsidiary of an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(c) by providing a full, unconditional and irrevocable letter of credit from a United States incorporated bank with a credit rating of not less than A by a national rating agency; or

(d) from a substantial and solvent entity as determined by the state investment council in accordance with its standards and practices; or

(6) if not guaranteed pursuant to Paragraph (5) of this subsection, have obtained no less than one-third of the estimated total production costs from other sources as

approved by the state investment officer.

D. The state investment officer may loan at a market rate of interest, with respect to an eligible New Mexico film project, up to eighty percent of an expected and estimated film production tax credit available to a film production company pursuant to the provisions of Section 7-2F-1 NMSA 1978; provided that the film production company agrees to name the state investment officer as its agent for the purpose of filing an application for the film production tax credit to which the company is entitled if the company does not apply for the film production tax credit. The New Mexico film division of the economic development department shall determine the estimated amount of a film production tax credit. The state investment council shall establish guidelines for the state investment officer's initiation of a loan and the terms of the loan.

E. As used in this section:

(1) "film project" means a single media or multimedia program, including advertising messages, fixed on film, videotape, computer disc, laser disc or other similar delivery medium from which the program can be viewed or reproduced and that is intended to be exhibited in theaters; licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means; or licensed for the home viewing market; and

