LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: SB 568 **50th Legislature, 1st Session, 2011**

Tracking Number: .185117.1

Short Title: Film Production & Educational Retirement

Sponsor(s): Senator John Arthur Smith

Analyst: Craig J. Johnson **Date: March 2, 2011 (revised)**

Bill Summary:

Among its provisions, SB 568:

- adds a new provision to provide for a distribution of $30.0 million ($2.5 million per month) to the Retiree Health Care Fund for FY 12 through FY 16 (July 1, 2011 to June 30, 2016) from the Tax Administration Suspense Fund[1]; and
- amends the film production tax credit to:
  - cap the credit at $45.0 million; and
  - allow a claim for a film production tax credit exceeding this limitation to be placed "at the front of a queue" of tax credit claims in the next year in the order the claims were authorized for payment.

Fiscal Impact:

The estimated average cost of the film production tax credit for FY 12 through FY 16 is approximately $75.8 million (see "Background," below). Therefore, SB 568 provides for distributions to the Retiree Health Care Fund in the approximate amount of the reduced tax expenditure. ($75.0 million estimated film tax credit = $45.0 million capped film tax credit + $30.0 million distribution to retiree health)

SB 568 appropriates $30.0 million per year to the retiree health care fund in FY 12 through FY 16. Assuming the average FY 12 through FY 16 estimated impact of the film production tax credit of roughly $75.0 million is fairly accurate, SB 568 would, in essence, be revenue and expense neutral as the amount of revenue the state forgoes with the tax credit is reduced by $30.0 million which essentially pays for the $30.0 million appropriation to the Retiree Health Care Fund.

Fiscal Issues:

The Legislature may wish to annually review information on the amounts of film production tax credit claims being submitted for continued evaluation of the appropriateness of the

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[1] Section 7-1-6.1 NMSA 1978

$45.0 million cap and the $30.0 million distribution. If future film production tax credits would be over $75.0 million, then SB 568 would help the state's fiscal solvency situation; conversely, if future film production tax credits would be less than $75.0 million, then SB 568 could exacerbate the state fiscal solvency issues.

Technical Issues: (Added March 2, 2011)

The title of Section 1 of the bill refers to the Educational Retirement Fund; however, the text of the bill refers to the Retiree Health Care Fund. The legislation could be amended to clarify which fund is intended.

Background:

New Mexico Retiree Health Care Authority (RHCA):

- The RHCA was created in 1990 to administer group and optional healthcare benefits and life insurance for New Mexico's current and future eligible retirees and their dependents.

- Eligible retirees are those who receive a disability or normal retirement benefit from public service in New Mexico with a participating employer and either contributed to the Retiree Health Care Fund for at least five years prior to retirement or retired prior to July 1, 1995.

- Participating employers, include state agencies, public school districts, charter schools, counties, cities, and institutions of higher education.

- The RHCA is governed by an 11-member Board of Directors comprising representatives of retirees, current employees, and public employers. The board sets overall policy for the agency, oversees the procurement of insurance benefits, and approves premium adjustments and benefit designs.

- The Retiree Health Care Fund is similar to a pension trust fund in that employees receive a right to a future benefit based, in part, on current contributions to the fund.

- Primary sources of income to the fund are (1) contributions from participating employers and active employees; (2) distributions from state income tax payments; (3) monthly premium contributions of enrolled participants; and (4) investment income.

Retiree Health Care Fund:

In 2007, a report evaluating the long-term trend and actuarial condition of the RHCA fund was presented to the Legislature. Most importantly, this report projected RHCA would become insolvent by 2014. In response, several solutions were identified and implemented. For example, the RHCA board increased premiums and reduced the subsidy provided to retirees. In addition, in 2009 the Legislature adopted several changes to the program including:

- increased employee and employer contributions to the program from 1.95 percent to 3.0 percent over a four-year period;

- removed the sunset clause for a $3.0 million tax suspense fund distribution;
- increased employee and employer contributions for employees in "enhanced retirement plans" from 1.95 percent to 3.75 percent over a four-year period;

- required that retirees purchase service credit from RHCA equal to the actuarial present value when purchasing service credit from PERA and ERB; and

- required that return-to-work employees and their employers contribute to the fund.

The RHCA board approved several changes to the program beginning January 1, 2010, as follows:

- consolidated three-plan design model (gold, silver and bronze) into a two-plan design model (premium and premium plus);

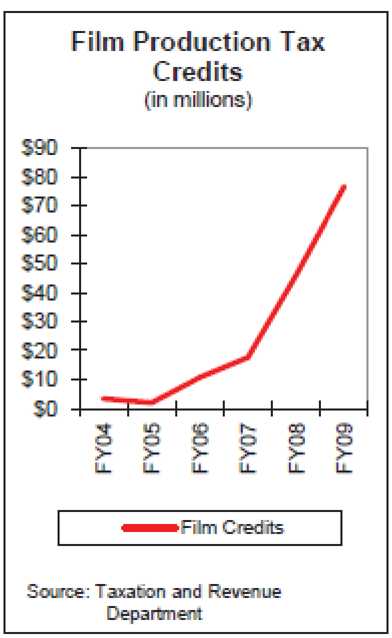
- increased premiums charged to retirees an average of 8.0 percent for calendar year 2010;

- increased premiums charged to retirees an average of 8.0 percent for calendar year 2011; and

- increased the annual out-of-pocket maximum on the premier plan from $3,000 to $4,000 effective January 1, 2011.

Despite the changes initiated by the Legislature and actions taken by the board, current and future retirees can expect to receive a subsidy in excess of the employee and employer contributions paid to the program over a 25-year period.

With a Unfunded Accrued Actuarial Liability of $2.9 billion, the RHCA program is expected to become insolvent by 2026 according to the updated long-term solvency analysis. Expenditures are expected to exceed all available revenue sources by $141 million per year. This analysis assumes the board will continue to increase premiums annually at an amount equal to medical trends, currently projected at 8.0 percent annually. In addition, the analysis assumes that payroll will remain flat through FY 12 and grow 4.0 percent thereafter.



Film Production Tax Credit:
The film production credit was initiated in 2002 as an effort to spur economic development. While most states offer some sort of film incentive, few match New Mexico's 25 percent rebate, loans with zero percent interest, and subsidized training programs for production crew through the Job Training Incentive Program. In the early years, film projects were typically small, low-budget productions or independent films. As the industry grew larger, big-budget productions dominated – several were Oscar-nominated films. Today the film industry is seeing longer series television productions and movie productions returning to the state to film sequels.

Tax expenditures are provisions of tax law that provide benefits to particular activities or groups through reduced tax liabilities. Tax expenditures can be viewed as government spending programs authorized through the tax code.

The Legislative Finance Committee's (LFC) FY 12 budget recommendation document, *Policy and Performance Analysis*, indicated the film production tax credit was approximately $66.0 million in FY 10. At a September 2010 LFC hearing, information was presented which estimated the FY 12 fiscal impact of the film production tax credit to be approximately $70.0 million, which is roughly a 3.5 percent annual increase from FY 10 through FY 12. The table below uses the 3.5 percent increase to estimate film tax credits from FY 12 through FY 16.

YEAR	**Est. Film Credit (millions)**
FY 10	$66.00
FY 11	$68.31
FY 12	$70.70
FY 13	$73.18
FY 14	$75.74
FY 15	$78.39
FY 16	$81.13
FY 12 through FY 16 AVG	**$75.83**

Related Bills:

SB 44a *Film Production Tax Credit Tracking & Review*
SB 169 *Film Production Tax Credit Cap*
SB 455 *Film Production Tax Credit Changes*
SB 555 *Film Production Tax Credit Reporting*
HB 19 *No Film Tax Credit & Limit Film Investments*
HB 479 *Reduce Film Production Tax Credit*
HB 569 *Retiree Health Care Rate Increase Delay*