F I S C A L I M P A C T R E P O R T

ORIGINAL DATE 02/14/11
SPONSOR Griego, P. **LAST UPDATED** **HB**

SHORT TITLE State Investment Council Film Incentive Evaluation **SJM** 16

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	$0.0	Nonrecurring	SIC funds

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$0.0	$0.0	$0.0	Nonrecurring	SIC operating

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From

SUMMARY

Synopsis of Bill

Senate Joint Memorial 16 requests the State Investment Council to evaluate the performance of the New Mexico film incentive program, with particular emphasis on the loans granted by SIC to various film producers, and to make recommendations for improvements and accountability measures to the legislature by December 2011. Specifically, the memorial requests the SIO consider converting the zero percent loans from film projects to its state market rate.

FISCAL IMPLICATIONS

None: SIC could study and report on the film loan portfolio with little additional effort.

SIGNIFICANT ISSUES

According to the text of the joint memorial,

> New Mexico has more than eleven thousand residents employed directly or indirectly in the film and media industry and state incentives for film and media have drawn concern about their effectiveness.
>
> The current market has changed dramatically and borrowing money is now cheap but tough to get when it used to be expensive but easy to get. The state's market rate for money is still less than the commercial market rate. The state investment council should evaluate converting the zero percent loans for film projects to its state market rate and evaluate benefits of additional incentives or favorable terms for local, in-state productions, particularly in rural areas.
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> The SIC should also study relocating the administration of the New Mexico film incentive program to be under the auspices of the New Mexico finance authority, the small business investment corporation or similar entities focused more on economic development.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 44 provides some tools to TRD to be able to gather data concerning the film production credit and its benefits (jobs, employee benefits, economic activity, taxes paid).

SJM 15 requests an Interim Legislative body to study the film production credit, determine gross and net benefits. This study would not be funded, except by volunteers.

OTHER SIGNIFICANT ISSUES

The SIO commented extensively on HB 19, the proposal to eliminate the Film Credit altogether reduce the allowable amount of the Severance Tax Permanent Fund (STPF) invested in New Mexico film and television productions from 6% to 3%.

> The State Investment Office reports that current allocations of the STPF to film loans are below the 3 percent maximum stated in HB 19 but there is concern that at market rate of interest, there will be no demand for film loans. The SIC currently issues loans at zero percent interest.
>
> According to the SIO, “Fiscal impact on the SIC will be dependent on industry appetite for market rate loans similar to those offered elsewhere. We believe it highly unlikely that there will be demand for such loans, especially should the state no longer offer a tax credit rebate. With 40 states currently offering some form of film incentives, it should be expected that fiscal realities would drive the vast majority of projects outside New Mexico. The loan program administered by the SIC has never brought a project to New Mexico on its own, but rather, has served as ‘icing on the cake’, the cake being the tax rebate on dollars spent here.

Further diminishing demand for such loans would be the fact that the Council has indicated it has little interest in making a non-secured loan without the current third-party letter of credit/guarantor. The risk involved in such an investment, for "market rate" returns is not attractive, and may in fact not comply with the Uniform Prudent Investor Act, due to the lack of a standard "market" for film project loans. Taking these factors into account, it is likely the terms the Council might require – either personal or corporate guarantees or a letter or credit – compounded with an inflated rate of interest for this particular type of market, our estimate is the demand for such vehicles would essentially be nil."

In terms of investment return, the opportunity cost of making the loans between 2002, when the credit was first introduced into statute, and 2011 was calculated by the SIO to be approximately $27.2 million. This is the difference between the $898 thousand in total returns earned in film loan investments and the $28.1 million in returns that could have been achieved investing in Treasury securities. In fact, because the permanent funds can be illiquid, much higher investment returns would have likely been achieved.

This analysis may indicate that if market rates of interest drive demand for film loans to zero, STPF funds may be invested in other assets that produce higher returns, and if there is demand for film loans at the market rate of interest, then the STPF would benefit from the higher rate of return.

LG/mew