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HOUSE BILL 284

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO PUBLIC FINANCES; CREATING THE NEW MEXICO FILMMAKERS
REVOLVING FUND; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO
ISSUE AND SELL NEW MEXICO FILMMAKERS REVOLVING FUND BONDS;
AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FROM
THE FUND.

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

SECTION 1. A new section of the Statewide Economic
Development Finance Act is enacted to read:

"[NEW MATERIAL] NEW MEXICO FILMMAKERS REVOLVING FUND
CREATED.--

A. The "New Mexico filmmakers revolving fund" is
created within the authority. The New Mexico filmmakers
revolving fund shall be administered by the authority as a
separate account and may consist of such subaccounts as the

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1 authority deems necessary to carry out the purposes of that
2 fund. The authority shall establish procedures for
3 administering the New Mexico filmmakers revolving fund in
4 accordance with the Statewide Economic Development Finance Act,
5 collecting applications from New Mexico filmmakers pursuant to
6 this section, forwarding applications to the advisory council
7 established pursuant to Subsection D of this section and
8 accepting or rejecting applications.

9 B. The purpose of the New Mexico filmmakers
10 revolving fund is to provide loans or loan guarantees pursuant
11 to Subsection E of this section for a film project that:

12 (1) has been designated as a candidate for
13 financing by the New Mexico film division of the economic
14 development department;

15 (2) has a workforce consisting of at least
16 eighty percent New Mexico residents working in any capacity on
17 the film;

18 (3) has at least eighty percent of its total
19 payroll costs, including pension and health care contributions,
20 paid to New Mexico residents;

21 (4) films at least ninety percent of the film
22 project in the state; and

23 (5) has at least ninety percent of the
24 postproduction work performed in the state.

25 C. The New Mexico film division of the economic

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1 development department shall adopt rules for designating a
2 candidate for financing pursuant to this 2012 act based on the
3 recommendations of the advisory council.

4 D. An advisory council consisting of New Mexico
5 residents shall review applications received from the authority
6 and make recommendations to the New Mexico film division of the
7 economic development department about which applicants to
8 consider as candidates for financing pursuant to this 2012 act.
9 The governor shall appoint advisory council members to serve
10 terms until successors are appointed, without per diem or other
11 compensation, as follows:

12 (1) one representative of a union of film
13 workers who is nominated by each union to serve a three-year
14 term;

15 (2) one representative of a union of actors,
16 film directors or screen writers who is nominated by each union
17 to serve a three-year term;

18 (3) one local governmental film liaison from
19 each United States congressional district in New Mexico to
20 serve a two-year term;

21 (4) one person with expertise in film finance
22 who is recommended by the director of the New Mexico film
23 division of the economic development department to serve a
24 three-year term;

25 (5) one person with expertise in bond issuance

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1 who is recommended by the director of the New Mexico film
2 division of the economic development department to serve a
3 three-year term; and

4 (6) one film producer with experience filming
5 in New Mexico who is recommended by the director of the New
6 Mexico film division of the economic development department to
7 serve a two-year term.

8 E. Except as otherwise provided in the Statewide
9 Economic Development Finance Act, money from payments of
10 principal of, interest on and other fees or charges paid to the
11 authority in connection with New Mexico filmmakers revolving
12 fund bonds, loans, project revenue bonds purchased with money
13 on deposit in that fund, loan participations, loan guarantees,
14 appropriations, grants, gifts and bequest shall be deposited in
15 the New Mexico filmmakers revolving fund.

16 F. Money in the New Mexico filmmakers revolving
17 fund is appropriated to the authority to:

- 18 (1) pay the reasonably necessary
19 administrative and other costs incurred by the authority in
20 evaluating, processing, originating and servicing New Mexico
21 filmmakers revolving fund bonds, loans, project revenue bonds,
22 loan participations and loan guarantees;
- 23 (2) purchase loan participations for projects;
- 24 (3) make loans for projects;
- 25 (4) make loan guarantees for projects; and

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1 (5) purchase project revenue bonds.

2 G. Money in the New Mexico filmmakers revolving
3 fund that is not needed for immediate disbursement, including
4 money held in reserve, may be deposited or invested in the same
5 manner as other funds administered by the authority.

6 H. Money on deposit in the New Mexico filmmakers
7 revolving fund may be designated as a reserve for New Mexico
8 filmmakers revolving fund bonds issued and for financing
9 assistance provided from that fund by the authority pursuant to
10 the Statewide Economic Development Finance Act and the
11 authority may covenant in any resolution or trust indenture to
12 maintain and replenish the reserve from money deposited in that
13 fund.

14 I. Money in the New Mexico filmmakers revolving
15 fund may be used to purchase project revenue bonds issued by
16 the authority pursuant to the Statewide Economic Development
17 Finance Act, which are payable from any designated source of
18 revenues or collateral. Purchasing and holding the bonds shall
19 not result in cancellation or merger of the bonds,
20 notwithstanding the fact that the authority as the issuer of
21 the bonds is obligated to make the required debt service
22 payments and the fund held by the authority is entitled to
23 receive the required debt service payments."

24 SECTION 2. A new section of the Statewide Economic
25 Development Finance Act is enacted to read:

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1 "[NEW MATERIAL] NEW MEXICO FILMMAKERS REVOLVING FUND BONDS
2 OF THE AUTHORITY--USE--SECURITY.--

3 A. The authority may issue and sell New Mexico
4 filmmakers revolving fund bonds in principal amounts it
5 determines necessary to provide sufficient money for film
6 projects, as provided in Section 1 of this 2012 act, by:

- 7 (1) making loans;
- 8 (2) entering into loan participations;
- 9 (3) providing loan guarantees;
- 10 (4) purchasing project revenue bonds;
- 11 (5) paying, funding or refunding of the
12 principal of or interest or redemption premiums on New Mexico
13 filmmakers revolving fund bonds issued by the authority,
14 whether the New Mexico filmmakers revolving fund bonds or
15 interest to be paid, funded or refunded have or have not become
16 due;

17 (6) establishing or increasing reserves or
18 sinking funds to secure or to pay principal, premium, if any,
19 or interest on New Mexico filmmakers revolving fund bonds; and

20 (7) paying all other costs or expenses of the
21 authority incident to and necessary or convenient to carry out
22 its duties pursuant to the Statewide Economic Development
23 Finance Act.

24 B. All New Mexico filmmakers revolving fund bonds
25 issued by the authority shall be payable solely from the New

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1 Mexico filmmakers revolving fund and the revenues, income and
2 fees deposited in that fund, and the New Mexico filmmakers
3 revolving fund bonds shall not create an obligation, debt or
4 liability of the state. No breach of any pledge, obligation or
5 agreement of the authority shall impose a pecuniary liability
6 or a charge upon the general credit or taxing power of the
7 state or any political subdivision of the state."

8 SECTION 3. Section 6-25-18 NMSA 1978 (being Laws 2005,
9 Chapter 103, Section 15) is amended to read:

10 "6-25-18. ECONOMIC DEVELOPMENT REVOLVING FUND BONDS AND
11 NEW MEXICO FILMMAKERS REVOLVING FUND BONDS--AUTHORIZATION FOR
12 ISSUANCE--TERMS AND CONDITIONS.--

13 A. Economic development revolving fund bonds and
14 New Mexico filmmakers revolving fund bonds of the authority
15 shall be authorized by resolution of the authority and may be
16 issued in one or more series. The economic development
17 revolving fund bonds and the New Mexico filmmakers revolving
18 fund bonds shall bear the dates, be in the form, be issued in
19 the denominations, have terms and maturities, bear or accrete
20 interest at rates and be payable and evidenced in the manner
21 and times as the resolution of the authority or the trust
22 agreement securing the economic development revolving fund
23 bonds or the New Mexico filmmakers revolving fund bonds
24 provides. The economic development revolving fund bonds or the
25 New Mexico filmmakers revolving fund bonds may be redeemed with

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1 or without premiums prior to maturity, may be ranked or
2 assigned priority status and may contain provisions not
3 inconsistent with this subsection.

4 B. The economic development revolving fund bonds
5 and the New Mexico filmmakers revolving fund bonds issued by
6 the authority may be sold at any time at private or public sale
7 at prices agreed upon by the authority.

8 C. Economic development revolving fund bonds or New
9 Mexico filmmakers revolving fund bonds may be issued pursuant
10 to the Statewide Economic Development Finance Act without
11 obtaining the consent of any agency of the state and without
12 any other proceeding or condition other than the proceedings or
13 conditions specified in that act.

14 D. The economic development revolving fund bonds
15 and the New Mexico filmmakers revolving fund bonds issued by
16 the authority are negotiable instruments for all purposes of
17 the Uniform Commercial Code.

18 E. Any resolution for the issuance of economic
19 development revolving fund bonds or New Mexico filmmakers
20 revolving fund bonds shall provide that each [~~economic~~
21 ~~development revolving fund~~] bond authorized shall recite that
22 it is issued by the authority. The recital shall clearly state
23 that the economic development revolving fund bonds or the New
24 Mexico filmmakers revolving fund bonds are in full compliance
25 with all of the provisions of the Statewide Economic

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1 Development Finance Act."

2 SECTION 4. Section 6-25-21 NMSA 1978 (being Laws 2005,
3 Chapter 103, Section 18) is amended to read:

4 "6-25-21. REFUNDING BONDS.--The authority is authorized
5 to issue economic development revolving fund bonds or New
6 Mexico filmmakers revolving fund bonds for the purpose of
7 refunding any economic development revolving fund bonds or New
8 Mexico filmmakers revolving fund bonds then outstanding,
9 including the payment of any redemption premiums and any
10 interest accrued or to accrue to the date of redemption of the
11 outstanding economic development revolving fund bonds or New
12 Mexico filmmakers revolving fund bonds. Until the proceeds of
13 the bonds issued for the purpose of refunding outstanding
14 economic development revolving fund bonds or New Mexico
15 filmmakers revolving fund bonds are applied to the purchase,
16 retirement or redemption of the outstanding economic
17 development revolving fund bonds or New Mexico filmmakers
18 revolving fund bonds, the proceeds may be placed in escrow and
19 be invested and reinvested. The interest, income and profits,
20 if any, earned or realized on any such investment may also be
21 applied to the payment of the outstanding economic development
22 revolving fund bonds or New Mexico filmmakers revolving fund
23 bonds to be refunded by purchase, retirement or redemption.
24 After the terms of the escrow have been fully satisfied, any
25 balance may be returned to the authority for use by it in any

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1 lawful manner. All such refunding bonds shall be issued and
2 secured and shall be subject to the provisions of the Statewide
3 Economic Development Finance Act in the same manner and to the
4 same extent as any other bonds issued pursuant to that act."

5 SECTION 5. Section 6-25-22 NMSA 1978 (being Laws 2005,
6 Chapter 103, Section 19) is amended to read:

7 "6-25-22. ECONOMIC DEVELOPMENT REVOLVING FUND, NEW MEXICO
8 FILMMAKERS REVOLVING FUND AND PROJECT REVENUE BOND ANTICIPATION
9 NOTES.--The authority is authorized to issue negotiable
10 economic development revolving fund, New Mexico filmmakers
11 revolving fund and project revenue bond anticipation notes and
12 may renew the notes from time to time, but the maximum maturity
13 of such notes, including renewals of such notes, shall not
14 exceed ten years from the date of issue of the original notes.
15 The notes shall be payable from any available money of the
16 authority from payments made by an eligible entity or from the
17 proceeds of sale of the bonds of the authority in anticipation
18 of which such notes were issued. The notes may be issued for
19 any purpose of the authority authorized by the Statewide
20 Economic Development Finance Act. All such notes shall be
21 issued and secured and shall be subject to the provisions of
22 that act in the same manner and to the same extent as bonds
23 issued pursuant to that act."