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FISCAL IMPACT REPORT

SPONSOR Gonzales **DATE TYPED** 02/23/05 **HB** 122/a HTRC

SHORT TITLE Film Production Tax Credit Loans **SB** _____

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
Indeterminate	Indeterminate			Permanent Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Investment Council (SIC)
Taxation and Revenue (TRD)

SUMMARY

House Bill 122 has been amended by the House Taxation and Revenue Committee. The amendment would strike the emergency clause from the original bill. However, the amendment does not provide a new effective date for the bill.

Synopsis of Original Bill

House Bill 122 would modify the State Investment Officer's (SIO) allowable transactions with film production companies with respect to the film company's tax credits. Currently, the SIO is allowed to purchase a portion of an anticipated film production tax credit available to a film production company. House Bill 122 would no longer allow the purchase of the tax credit, but instead would allow the SIO to loan up to 80 percent of the expected film production tax credit, up to the maximum permissible under the statute of (\$7.5 million).

In order to help ensure the loan payment to the SIO by the film production company, this bill in-

serts language to include these refundable tax credit payments for film production in the Tax Refund Intercept Program, which permits the interception of tax credits and diverts them to the SIO. Alternatively, the bill would allow the SIO to file for the tax credit on behalf of the production company, if the company does not file on its own behalf.

House Bill 122 is being proposed on behalf of the Revenue Stabilization and Tax Policy Committee.

FISCAL IMPLICATIONS

The fiscal implications associated with the amended or original bill are indeterminate at this time, according to SIC.

ADMINISTRATIVE IMPLICATIONS

According to the SIC, since it currently makes loans under other existing statutes, there would be little or no administrative impact on the agency as a result of this legislation.

TECHNICAL ISSUES

According to the SIC, there are two potential issues in the current draft of the bill.

1. There is no definition of “market rate of interest” in this context. Would the market rate reflect the level of risk, collateral, etc. or would the market rate equal some fixed rate above the prime rate?
2. The bill should be modified to clearly define the term “agent” to mean that the SIC could collect money on behalf of the company claiming the tax credit and use that money to pay back the loan granted to that company.

OTHER IMPACTS AND ISSUES

According to TRD, provisions permitting the state investment officer to loan money to a film production company against an anticipated film credit may be considered in violation of Article IX, § 14 of the New Mexico Constitution. Article IX, § 14 prohibits the state, except in certain delineated circumstances, from directly or indirectly lending or pledging its credit or making any donation to a person, association or public or private corporation. None of the exceptions set forth in Subsections A-F of Article IX, § 14 are applicable to the loan transaction contemplated in the bill.

OPJ/lg