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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/06

SPONSOR Robinson LAST UPDATED _____ HB _____

SHORT TITLE Create Film Investment Guarantee Fund SB 657

ANALYST Geisler

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
(25.0)	(50.0)		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 591 and SB 535

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Investment Council (SIC)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 657 creates a "Film Investment Guarantee Fund" to act as guarantor for a specific group of film projects that must be 1) shot completely in New Mexico, 2) feature a story/stories authored by New Mexico residents, and 3) employ 80% New Mexicans or greater as below-the-line crew members. In addition, 4) the film must be recommended for investment by the state investment council's film contract advisor.

The Fund dollars would then be used by filmmakers to guarantee the loans made by the State Investment Council as required under its Film Investment Program, which provides film and television projects up to \$15 million in no-interest participation loans, in exchange for a share of the project's post-break even revenues.

The Fund would also allow taxpayers to contribute to the Fund and claim a tax deduction of up to \$50,000 per year per individual (or corporation) for said contributions, beginning in 2006.

These contributions appear to be the primary funding vehicle for this legislation as written.

FISCAL IMPLICATIONS

This legislation would likely increase film related spending in New Mexico, but will have a negative impact on income tax collected.

TRD reports that to the extent that taxpayers take advantage of the new deductions for contributions to the Fund, the proposal will reduce personal and/or corporate income tax collections. TRD does not have information at present about how much the contributions to the Fund are likely to be. If contributions are \$1 million per year, the foregone personal or corporate income tax would be about \$50 thousand given the top personal income tax rate, or about \$76 thousand, given the top corporate income tax rate.

It is the SIC's belief that to properly assess and vet the current number of proposed outside film projects, in addition to an unknown number of New Mexico projects, will require an additional film advisor to handle the additional assessments. The SIC estimates annual costs for additional film advisory services could be greater than \$200,000.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The SIC believes requirements in the current Film Investment Statute 7-27-5.26 would limit the impact and intended benefit of a "Film Investment Guaranteed Fund" to New Mexico filmmakers. Under current statute, all projects must not only have a guarantor or letter of credit guaranteeing repayment of the State's loan, but must also "(2) have shown to the satisfaction of the New Mexico film division that a distribution contract is in place with a reputable distribution company;

Finding film distribution for an unproven filmmaker is often as much of a challenge as financing the project itself, as film distribution deals, both foreign and domestic, are based on established industry record, film genre, and known star power of the principles involved in the project.

Furthermore, current SIC policy regarding the Film Investment Program requires that members of the Private Equity Committee & SIC exercise fiduciary duty in weighing and approving a film/TV project's risk against its potential for generating profits. Economic development & job benefits to the state are a secondary consideration under the current statute. Under SB 657, it is unclear how many New Mexico projects would still qualify for investment using those current requirements.

PERFORMANCE IMPLICATIONS

Today, the NM Film Investment Program has capacity of about \$90 million available for investment out of the statutory allowance of \$195 million (5% of the Severance Tax Permanent Fund), with 5 loans due to be repaid by the end of FY 07. Depending on the number of New Mexico projects approved for investment under SB 657, the amount available for new loans for all pro-

jects could be limited or constrained by new projects. Also, pending lack of legislative action regarding the Film Tax Credit Loan program, availability of funds for films under that vehicle could also be limited under SB 657.

ADMINISTRATIVE IMPLICATIONS

SB 657 would require some additional effort for the SIC to administer, though likely not enough to warrant additional SIC staff.

RELATIONSHIP

HB 591 & SB 535, if approved in 2006, will allow Film Production Tax Credit loans to be drawn from a different pool of money than the Film Investment Program loans. Under current statute, total investment loans for both programs combined are capped at a total of \$15 million, which comes out of the 5% allocation from the STPF per 7-27-5.26

OTHER SUBSTANTIVE ISSUES

The NM Film Office, which works closely with the SIC on its Film Investment Program, including establishing residency requirements of crew, could see significant oversight duties depending on the number of additional qualifying NM films.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

SIC notes that NM Filmmakers continue to face challenges in succeeding and participating in the film industry, which is heavily influenced by existing Hollywood establishment & business structures. The SIC's estimation, is that while this bill would mitigate one factor, it would not affect several other challenges in this area.

GG/yr