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SENATE BILL 161

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Shannon Robinson

AN ACT

RELATING TO THE INVESTMENT OF STATE FUNDS; PROVIDING THAT A
PORTION OF THE SEVERANCE TAX PERMANENT FUND MAY, UNDER
CERTAIN CONDITIONS, BE INVESTED IN VENTURE CAPITAL FUNDS THAT
INVEST IN FILMS PRODUCED IN NEW MEXICO.

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

Section 1. Section 7-27-5 NMSA 1978 (being Laws 1983,
Chapter 306, Section 7, as amended) is amended to read:

"7-27-5. INVESTMENT OF SEVERANCE TAX PERMANENT FUND.--
The severance tax permanent fund shall be invested for two
general purposes, to provide income to the fund and to
stimulate the economy of New Mexico, preferably on a
continuing basis. The investments in Sections 7-27-5.1 and
7-27-5.6 NMSA 1978 shall be those intended to provide maximum
income to the fund and shall be referred to as the market
rate investments. The investments permitted in Sections 7-
.130788.1

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1 27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-
2 5.22, ~~[and]~~ 7-27-5.24 and 7-27-5.25 NMSA 1978 shall be those
3 intended to stimulate the economy of New Mexico and shall be
4 referred to as the differential rate investments. The
5 prudent man rule shall be applied to the market rate
6 investments, and the state investment officer shall keep
7 separate records of the earnings of the market rate
8 investments. All transactions entered into on or after July
9 1, 1991 shall be accounted for in accordance with generally
10 accepted accounting principles."

11 Section 2. A new section of the Severance Tax Bonding
12 Act, Section 7-27-5.25 NMSA 1978, is enacted to read:

13 "7-27-5.25. [NEW MATERIAL] INVESTMENT IN FILMS TO BE
14 PRODUCED IN NEW MEXICO.--

15 A. No more than one-half of one percent of the
16 market value of the severance tax permanent fund may be
17 invested in New Mexico film venture capital funds under this
18 section.

19 B. If an investment is made under this section,
20 not more than seven million five hundred thousand dollars
21 (\$7,500,000) of the amount authorized for investment pursuant
22 to Subsection A of this section shall be invested in any one
23 New Mexico film venture capital fund.

24 C. The state investment officer shall make
25 investments pursuant to this section only upon approval of
the state investment council after a review by the venture
capital investment advisory committee and the New Mexico film

1 division of the economic development department. The state
2 investment officer may make an investment pursuant to this
3 section only in a New Mexico film venture capital fund that
4 invests only in film projects that:

5 (1) are filmed wholly or partly in New
6 Mexico;

7 (2) have obtained no less than one-third of
8 the estimated total production costs from other sources;

9 (3) have shown to the satisfaction of the
10 New Mexico film division that a distribution contract is in
11 place with a reputable distribution company;

12 (4) have agreed that, while filming in New
13 Mexico, a majority of the production crew will be New Mexico
14 residents; and

15 (5) have posted a completion bond that has
16 been approved by the New Mexico film division.

17 D. As used in this section:

18 (1) "committed capital" means the sum of the
19 fixed amounts of money that accredited investors have
20 obligated for investment in a New Mexico film venture capital
21 fund, which fixed amounts may be invested in that fund on one
22 or more payments over time;

23 (2) "film project" means a single media or
24 multimedia program, including advertising messages, fixed on
25 film, videotape, computer disc, laser disc or other similar
delivery medium from which the program can be viewed or
reproduced and that is intended to be exhibited in theaters,

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1 licensed for exhibition by individual television stations,
2 groups of stations, networks, cable television stations or
3 other means or licensed for the home viewing market; and

4 (3) "New Mexico film venture capital fund"
5 means any limited partnership, limited liability company or
6 corporation organized and operating in the United States
7 that: (a) has as its primary business
8 activity the investment of funds in return for equity in film
9 projects produced wholly or partly in New Mexico;

10 (b) holds out the prospects for capital
11 appreciation from such investments;

12 (c) has a minimum committed capital of
13 three million dollars (\$3,000,000); and

14 (d) accepts investments only from
15 accredited investors as that term is defined in Section 2 of
16 the federal Securities Act of 1933, as amended, and rules
17 promulgated pursuant to that section."