

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 7-27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-5.22 and 7-27-5.24 through 7-27-5.26 NMSA 1978 shall be those intended to stimulate the economy of New Mexico and shall be referred to as the differential rate investments. The prudent man rule shall be applied to the market rate investments, and the state investment officer shall keep separate records of the earnings of the market rate investments. All transactions entered into on or after July 1, 1991 shall be accounted for in accordance with generally accepted accounting principles."

Section 2. A new section of the Severance Tax Bonding Act, Section 7-27-5.26 NMSA 1978, is enacted to read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW MEXICO.--

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

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

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

(1) are filmed wholly or substantially in New Mexico;

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

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

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

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

D. As used in this section:

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

(2) "film project" means a single media or multimedia program, including advertising messages, fixed on 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, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for the home viewing market; and

(3) "New Mexico film venture capital fund" means any limited partnership, limited liability company or corporation organized and operating in the United States that:

(a) has as its primary business activity the investment of funds in return for equity in film projects produced wholly or partly in New Mexico;

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

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