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AN ACT

RELATING TO TAXATION; INCREASING THE PERCENTAGE OF THE SEVERANCE TAX PERMANENT FUND ALLOWED TO BE INVESTED IN NEW MEXICO FILM PRIVATE EQUITY FUNDS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 6, Section 2, as amended by Laws 2005, Chapter 101, Section 2 and by Laws 2005, Chapter 106, Section 1) is amended to read:

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

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico film private equity funds or a New Mexico film project under this section.

B. If an investment is made under this section, not more than fifteen million dollars (\$15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico film private equity fund or any one New Mexico film project.

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 private

1 equity investment advisory committee and the New Mexico film
2 division of the economic development department. The state
3 investment officer may make debt or equity investments
4 pursuant to this section only in New Mexico film projects or
5 New Mexico film private equity funds that invest only in film
6 projects that:

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

9 (2) 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 (3) have agreed that, while filming in New
13 Mexico, a majority of the production crew will be New Mexico
14 residents;

15 (4) have posted a completion bond that has
16 been approved by the New Mexico film division; provided that
17 a completion bond shall not be required if the fund or
18 project is guaranteed pursuant to Paragraph (5) of this
19 subsection; and

20 (5) have obtained a full, unconditional and
21 irrevocable guarantee of repayment of the invested amount in
22 favor of the severance tax permanent fund:

23 (a) from an entity that has a credit
24 rating of not less than Baa or BBB by a national rating
25 agency;

1 (b) from a substantial subsidiary of an
2 entity that has a credit rating of not less than Baa or BBB
3 by a national rating agency;

4 (c) by providing a full, unconditional
5 and irrevocable letter of credit from a United States
6 incorporated bank with a credit rating of not less than A by
7 a national rating agency; or

8 (d) from a substantial and solvent
9 entity as determined by the state investment council in
10 accordance with its standards and practices; or

11 (6) if not guaranteed pursuant to Paragraph
12 (5) of this subsection, have obtained no less than one-third
13 of the estimated total production costs from other sources as
14 approved by the state investment officer.

15 D. The state investment officer may loan at a
16 market rate of interest, with respect to an eligible New
17 Mexico film project, up to eighty percent of an expected and
18 estimated film production tax credit available to a film
19 production company pursuant to the provisions of Section 7-
20 2F-1 NMSA 1978; provided that the film production company
21 agrees to name the state investment officer as its agent for
22 the purpose of filing an application for the film production
23 tax credit to which the company is entitled if the company
24 does not apply for the film production tax credit. The New
25 Mexico film division of the economic development department

1 shall determine the estimated amount of a film production tax
2 credit. The state investment council shall establish
3 guidelines for the state investment officer's initiation of a
4 loan and the terms of the loan.

5 E. As used in this section:

6 (1) "film project" means a single media or
7 multimedia program, including advertising messages, fixed on
8 film, videotape, computer disc, laser disc or other similar
9 delivery medium from which the program can be viewed or
10 reproduced and that is intended to be exhibited in theaters;
11 licensed for exhibition by individual television stations,
12 groups of stations, networks, cable television stations or
13 other means; or licensed for the home viewing market; and

14 (2) "New Mexico film private equity fund"
15 means any limited partnership, limited liability company or
16 corporation organized and operating in the United States
17 that:

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

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

23 (c) accepts investments only from
24 accredited investors as that term is defined in Section 2 of
25 the federal Securities Act of 1933, as amended, and rules

