

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 627

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PROVIDING THAT INVESTMENTS OF THE SEVERANCE TAX PERMANENT FUND  
IN FILMS TO BE PRODUCED IN NEW MEXICO SHALL BE IN THE FORM OF  
LOANS WITH A FIXED INTEREST RATE.

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) 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.

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

6           C. The state investment officer shall make  
7 investments pursuant to this section only upon approval of the  
8 [~~state investment~~] council after a review by the private equity  
9 investment advisory committee and the New Mexico film division  
10 of the economic development department. The state investment  
11 officer may make debt [~~or equity~~] investments pursuant to this  
12 section only in New Mexico film projects or New Mexico film  
13 private equity funds that invest only in film projects that:

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

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

19                   (3) have agreed that, while filming in New  
20 Mexico, a majority of the production crew will be New Mexico  
21 residents;

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

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

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

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

9 (c) by providing a full, unconditional  
 10 and irrevocable letter of credit from a United States  
 11 incorporated bank with a credit rating of not less than A by a  
 12 national rating agency; or

13 (d) from a substantial and solvent  
 14 entity as determined by the [~~state investment~~] council in  
 15 accordance with its standards and practices; or

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

20 D. Except as provided in Subsection E of this  
 21 section, investments of the severance tax permanent fund  
 22 pursuant to this section shall be in the form of loans with a  
 23 fixed rate of interest as follows:

24 (1) if the New Mexico location for the film  
 25 project will be primarily within the boundaries of a class A

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1 county, the rate of interest on the loan shall not be less than  
2 the prime rate as published in the *Wall Street Journal* on the  
3 date of the loan plus one and one-half percentage points; and

4 (2) if the New Mexico location for the film  
5 project will be primarily outside the boundaries of a class A  
6 county, the rate of interest on the loan shall not be less than  
7 the prime rate as published in the *Wall Street Journal* on the  
8 date of the loan plus one percentage point.

9 ~~[D.]~~ E. The state investment officer may loan at a  
10 market rate of interest, with respect to an eligible New Mexico  
11 film project, up to eighty percent of an expected and estimated  
12 film production tax credit available to a film production  
13 company pursuant to the provisions of Section 7-2F-1 NMSA 1978;  
14 provided that the film production company agrees to name the  
15 state investment officer as its agent for the purpose of filing  
16 an application for the film production tax credit to which the  
17 company is entitled if the company does not apply for the film  
18 production tax credit. The New Mexico film division of the  
19 economic development department shall determine the estimated  
20 amount of a film production tax credit. The ~~[state investment]~~  
21 council shall establish guidelines for the state investment  
22 officer's initiation of a loan and the terms of the loan.

23 ~~[E.]~~ F. As used in this section:

24 (1) "film project" means a single ~~[media]~~  
25 medium or multimedia program, including advertising messages,

1 fixed on film, videotape, computer disc, laser disc or other  
2 similar delivery medium from which the program can be viewed or  
3 reproduced and that is intended to be exhibited in theaters;  
4 licensed for exhibition by individual television stations,  
5 groups of stations, networks, cable television stations or  
6 other means or licensed for the home viewing market; and

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

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

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

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

19 **SECTION 2. APPLICABILITY.**--The provisions of this act  
20 apply to investments made on or after July 1, 2011.