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HOUSE BILL 197

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO THE INVESTMENT OF PUBLIC MONEY; PROVIDING FOR THE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN NEW MEXICO RENEWABLE ENERGY.

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

Section 1. A new section of the Severance Tax Bonding Act is enacted to read:

"[NEW MATERIAL] INVESTMENT IN NEW MEXICO RENEWABLE ENERGY.--

A. No more than ten percent and, if investments in accordance with the Uniform Prudent Investor Act are available, no less than three percent of the market value of the severance tax permanent fund shall be invested in New Mexico renewable energy under this section. On July 1, 2012 and on July of each subsequent year, the state investment officer shall determine

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1 whether the invested capital in New Mexico renewable energy is
2 less than three percent of the market value of the severance
3 tax permanent fund. If the investment in New Mexico renewable
4 energy equals less than three percent of the market value of
5 the severance tax permanent fund:

6 (1) further investments shall be made until
7 the investments equal three percent of the market value of the
8 fund; or

9 (2) the state investment officer shall certify
10 to the governor, the legislature and the energy, minerals and
11 natural resources department that the state investment officer
12 has determined that there are no additional investments in New
13 Mexico renewable energy that can be made in accordance with the
14 Uniform Prudent Investor Act.

15 B. The state investment officer shall make an
16 investment pursuant to this section only upon approval of the
17 council after review by the energy, minerals and natural
18 resources department, the economic development department and,
19 if the investment is in a New Mexico renewable energy private
20 equity fund, the private equity investment advisory committee.

21 C. Investments pursuant to this section shall be
22 diversified among the alternatives specified in Subparagraphs
23 (a) through (h) of Paragraph (1) of Subsection D of this
24 section, provided that an investment in a renewable energy
25 project shall not exceed fifty percent of the estimated cost of

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1 the project.

2 D. As used in this section:

3 (1) "New Mexico renewable energy" means:

4 (a) a business entity with its principal
5 office and a majority of its full-time employees in New Mexico
6 and that, as its primary business, manufactures, distributes,
7 sells or installs equipment used in the generation, storage or
8 transmission of renewable energy or in the more efficient use
9 of energy;

10 (b) a business entity that employs more
11 than fifty employees at a manufacturing facility in New Mexico,
12 the primary product of which is equipment used in the
13 generation, storage or transmission of renewable energy or in
14 the more efficient use of energy;

15 (c) a renewable energy project located
16 in New Mexico;

17 (d) bonds issued under the Renewable
18 Energy Financing District Act;

19 (e) energy efficiency bonds issued under
20 the Energy Efficiency and Renewable Energy Bonding Act;

21 (f) utility revenue bonds issued by a
22 municipality or county for acquiring, extending, enlarging,
23 bettering, repairing or otherwise improving a facility, the
24 primary purpose of which is the generation, storage or
25 transmission of renewable energy;

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1 (g) renewable energy transmission bonds
2 issued under the New Mexico Renewable Energy Transmission
3 Authority Act; or

4 (h) a New Mexico renewable energy
5 private equity fund;

6 (2) "New Mexico renewable energy private
7 equity fund" means a business entity organized and operating in
8 the United States that:

9 (a) has as its primary business activity
10 the investment of funds in return for equity in renewable
11 energy projects located in New Mexico;

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

14 (c) 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;

18 (3) "renewable energy" means energy from solar
19 heat, solar light, wind, geothermal energy, landfill gas or
20 biomass either singly or in combination that produces low or
21 zero emissions and has substantial long-term production
22 potential;

23 (4) "renewable energy project" means
24 facilities located in New Mexico, the primary purpose of which
25 is the generation, transmission or storage of renewable energy;

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1 and

2 (5) "storage" means energy storage
3 technologies that convert, store and subsequently use energy to
4 help alleviate temporal disparities between energy supply and
5 demand, to facilitate the distribution of energy or to increase
6 the economic return on the sale of energy."

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