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HOUSE BILL 415

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

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO THE MOTION PICTURE INDUSTRY; CREATING THE NEW
MEXICO FILM COMMISSION; PROVIDING FOR SEVERANCE TAX PERMANENT
FUND INVESTMENT IN SMALL-BUDGET NEW MEXICO FILMS.

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 SMALL-BUDGET NEW MEXICO
FILMS--NEW MEXICO FILM COMMISSION CREATED--DUTIES.--

A. The "New Mexico film commission" is created.
The commission is comprised of five members to be appointed by
the governor. One member shall be a New Mexico independent
film producer; one member shall be from a New Mexico business
that provides goods and services to New Mexico independent film
producers; one member shall be from a nonprofit New Mexico

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1 organization committed to the development of the film or
2 television industry in New Mexico; and two members shall be
3 from New Mexico film trade organizations. Members shall serve
4 three-year terms but shall be initially appointed for staggered
5 terms so that no more than two members' terms expire in any one
6 year. The commission shall meet as necessary to carry out its
7 duties. Members may receive per diem and mileage for travel
8 within New Mexico as provided in the Per Diem and Mileage Act,
9 but shall receive no other compensation, perquisite or
10 allowance. The commission is administratively attached to the
11 economic development department, and its activities shall be
12 coordinated with the New Mexico film division of the economic
13 development department.

14 B. The New Mexico film commission shall review
15 investment proposals pursuant to this section and make
16 recommendations to the state investment officer.

17 C. As a part of the severance tax permanent fund
18 that may be invested in a New Mexico film project pursuant to
19 Section 7-27-5.26 NMSA 1978, an investment pursuant to this
20 section may be made in a small-budget New Mexico film project.

21 D. If an investment is made pursuant to this
22 section, it may be for between one hundred fifty thousand
23 dollars (\$150,000) and two million dollars (\$2,000,000) in any
24 one small-budget New Mexico film project.

25 E. The state investment officer shall make

.184082.1

1 investments pursuant to this section only upon approval of the
2 council after a review by the private equity investment
3 advisory committee and a review and recommendation by the New
4 Mexico film commission. The state investment officer may make
5 debt or equity investments pursuant to this section only in New
6 Mexico film projects that:

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

9 (2) have shown to the satisfaction of the
10 commission that a distribution contract is in place with a
11 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 commission; provided that a completion
17 bond shall not be required if the fund or project is guaranteed
18 pursuant to Paragraph (5) of this subsection; and

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

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

24 (b) from a substantial subsidiary of an
25 entity that has a credit rating of not less than Baa or BBB by

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1 a national rating agency;

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

6 (d) from a substantial and solvent
7 entity as determined by the council in accordance with its
8 standards and practices; or

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

13 F. As used in this section, "small-budget New
14 Mexico film" means a single media or multimedia program,
15 including advertising messages, that is fixed on film,
16 videotape, computer disc, laser disc or other similar delivery
17 medium from which the program can be viewed or reproduced, that
18 is intended to be exhibited in theaters, licensed for
19 exhibition by individual television stations, groups of
20 stations, networks, cable television stations or other means or
21 licensed for the home viewing market; that is produced by a
22 person who maintains a legal domicile in New Mexico; and that
23 has a budget of no more than two million dollars (\$2,000,000)."