

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 415

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

AN ACT

RELATING TO THE MOTION PICTURE INDUSTRY; 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.--

A. As a portion of the amount of severance tax  
permanent fund that may be invested in a New Mexico film  
project pursuant to Section 7-27-5.26 NMSA 1978, and pursuant  
to the requirements of this section, an investment loan may be  
made in a small-budget New Mexico film project.

B. An investment made pursuant to this section

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underscored material = new  
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1 shall be for no less than one hundred fifty thousand dollars  
2 (\$150,000) or no more than five million dollars (\$5,000,000) in  
3 any one small-budget New Mexico film project.

4 C. The state investment officer shall make  
5 investments pursuant to this section only upon approval of the  
6 council after a review by the private equity investment  
7 advisory committee and a review and recommendation by the New  
8 Mexico film division of the economic development department  
9 with advice from New Mexico filmmakers. The state investment  
10 officer may make debt or equity investments pursuant to this  
11 section only in small-budget New Mexico films pursuant to the  
12 following conditions:

13 (1) the film is filmed wholly or substantially  
14 in New Mexico;

15 (2) the producer has agreed that, while  
16 filming in New Mexico, no less than one-half of the production  
17 crew payroll will be paid to New Mexico residents;

18 (3) the producer has posted a completion bond  
19 that has been approved by the council; provided that a  
20 completion bond shall not be required if the fund or project is  
21 guaranteed pursuant to Paragraph (4) of this subsection;

22 (4) the producer obtained a full,  
23 unconditional and irrevocable guarantee of repayment of the  
24 invested amount in favor of the severance tax permanent fund:

25 (a) by providing a full, unconditional

1 and irrevocable letter of credit from a United States  
2 incorporated bank; or

3 (b) from a substantial and solvent  
4 entity as determined by the council in accordance with its  
5 standards and practices;

6 (5) the producer has agreed to pay a  
7 processing fee of no more than one and one-half percent of the  
8 investment loan amount to the council or to a third-party fund  
9 manager as directed by the council; and

10 (6) the investment loan shall be repaid at a  
11 market rate that is not less than the existing rate of return  
12 for ten-year United States treasury bonds plus one and one-half  
13 percent; provided that the rate in this paragraph may be  
14 reduced by:

15 (a) one-half percent if the producer  
16 agrees to film the majority of the small-budget New Mexico film  
17 in counties with a population of less than one hundred thousand  
18 according to the most recent federal decennial census;

19 (b) one-half percent if the producer  
20 pays a payroll to a production crew and cast that together are  
21 composed of at least eighty-five percent New Mexico residents;  
22 and

23 (c) one-half percent if the cultural  
24 affairs department or the tourism department certifies to the  
25 council that the small-budget New Mexico film will be of

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1 significant value in promoting cultural values or tourism in  
2 New Mexico.

3 D. As used in this section, "small-budget New  
4 Mexico film" means a single-medium or multimedia program,  
5 including advertising messages, that is fixed on film,  
6 videotape, computer disc, laser disc or other similar delivery  
7 medium from which the program can be viewed or reproduced; that  
8 is intended to be exhibited in theaters, licensed for  
9 exhibition by individual television stations, groups of  
10 stations, networks, cable television stations or other means or  
11 licensed for the home viewing market; that is produced by a  
12 person who maintains a legal domicile in New Mexico; and that  
13 has a budget of no less than one hundred fifty thousand dollars  
14 (\$150,000) or no more than five million dollars (\$5,000,000)."