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AN ACT

RELATING TO THE SEVERANCE TAX PERMANENT FUND; INCREASING  
INVESTMENT IN SMALL BUSINESSES.

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

SECTION 1. Section 7-27-5.15 NMSA 1978 (being Laws  
1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW  
MEXICO BUSINESS INVESTMENTS.--

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

B. In making investments pursuant to Subsection A  
of this section, the council shall make investments in  
New Mexico private equity funds or New Mexico businesses  
whose investments or enterprises enhance the economic  
development objectives of the state.

C. The state investment officer shall make  
investments pursuant to Subsection A of this section only  
upon approval of the council and within guidelines and  
policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case  
of a corporation or limited liability company, a business

1 with its principal office and a majority of its full-time  
2 employees located in New Mexico or, in the case of a limited  
3 partnership, a business with its principal place of business  
4 and eighty percent of its assets located in New Mexico; and

5 (2) "New Mexico private equity fund" means  
6 an entity that makes, manages or sources potential  
7 investments in New Mexico businesses and that:

8 (a) has as its primary business  
9 activity the investment of funds in return for equity in or  
10 debt of businesses for the purpose of providing capital for  
11 start-up, expansion, product or market development,  
12 recapitalization or similar business purposes;

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

15 (c) has at least one full-time manager  
16 with at least three years of professional experience in  
17 assessing the growth prospects of businesses or evaluating  
18 business plans;

19 (d) is committed to investing or helps  
20 secure investing by others, in an amount at least equal to  
21 the total investment made by the state investment officer in  
22 that fund pursuant to this section, in businesses with a  
23 principal place of business in New Mexico and that hold  
24 promise for attracting additional capital from individual or  
25 institutional investors nationwide for businesses in

1 New Mexico; and

2 (e) accepts investments only from  
3 accredited investors as that term is defined in Section 2 of  
4 the federal Securities Act of 1933, as amended (15 USCA  
5 Section 77(b)), and rules and regulations promulgated  
6 pursuant to that section, or federally recognized Indian  
7 tribes, nations and pueblos with at least five million  
8 dollars (\$5,000,000) in overall investment assets.

9 E. The state investment officer is authorized to  
10 make investments in New Mexico businesses to create new job  
11 opportunities and to support new, emerging or expanding  
12 businesses in a manner consistent with the constitution of  
13 New Mexico if:

14 (1) the investments are made:

15 (a) in conjunction with cooperative  
16 investment agreements with parties that have demonstrated  
17 abilities and relationships in making investments in new,  
18 emerging or expanding businesses;

19 (b) in a New Mexico aerospace business  
20 that has received an award from the United States government  
21 or one of its agencies or instrumentalities: 1) in an  
22 amount, not less than one hundred million dollars  
23 (\$100,000,000), that is equal to at least ten times the  
24 investment from the severance tax permanent fund; and 2) for  
25 the purpose of stimulating commercial enterprises; or

1 (c) in a New Mexico business that:  
2 1) is established to perform technology transfer, research  
3 and development, research commercialization, manufacturing,  
4 training, marketing or public relations in any field of  
5 science or technology, including but not limited to energy,  
6 security, defense, aerospace, automotives, electronics,  
7 telecommunications, computer and information science,  
8 environmental science, biomedical science, life science,  
9 physical science, materials science or nanoscience, using  
10 research developed in whole or in part by a state institution  
11 of higher education or a prime contractor designated as a  
12 national laboratory by an act of congress that is operating a  
13 facility in the state, or an affiliated entity; and 2) has an  
14 agreement to operate the business on state lands;

15 (2) an investment in any one business does  
16 not exceed ten percent of the amount available for investment  
17 pursuant to this section; and

18 (3) the investments represent no more than  
19 fifty-one percent of the total investment capital in a  
20 business; provided, however, that nothing in this subsection  
21 prohibits the ownership of more than fifty-one percent of the  
22 total investment capital in a New Mexico business if the  
23 additional ownership interest:

24 (a) is due to foreclosure or other  
25 action by the state investment officer pursuant to agreements

1 with the business or other investors in that business;

2 (b) is necessary to protect the  
3 investment; and

4 (c) does not require an additional  
5 investment of the severance tax permanent fund.

6 F. The state investment officer shall make a  
7 commitment to the small business investment corporation  
8 pursuant to the Small Business Investment Act to invest two  
9 percent of the market value of the severance tax permanent  
10 fund to create new job opportunities by providing capital for  
11 land, buildings or infrastructure for facilities to support  
12 new or expanding businesses and to otherwise make investments  
13 to create new job opportunities to support new or expanding  
14 businesses in a manner consistent with the constitution of  
15 New Mexico. On July 1 of each year, the state investment  
16 officer shall determine whether the invested capital in the  
17 small business investment corporation is less than two  
18 percent of the market value of the severance tax permanent  
19 fund. If the invested capital in the small business  
20 investment corporation equals less than two percent of the  
21 market value of the severance tax permanent fund, further  
22 commitments shall be made until the invested capital is equal  
23 to two percent of the market value of the fund.

24 G. The state investment officer shall report  
25 semiannually on the investments made pursuant to this section.

1 Annually, a report shall be submitted to the legislature prior  
2 to the beginning of each regular legislative session and a  
3 second report no later than October 1 each year to the  
4 legislative finance committee, the revenue stabilization and  
5 tax policy committee and any other appropriate interim  
6 committee. Each report shall provide the amounts invested in  
7 each New Mexico private equity fund, as well as information  
8 about the objectives of the funds, the companies in which each  
9 private equity fund is invested and how each private equity  
10 investment enhances the economic development objectives of the  
11 state. Each report also shall provide the amounts invested in  
12 each New Mexico business." \_\_\_\_\_

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