

AN ACT

RELATING TO THE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND; AMENDING THE SEVERANCE TAX BONDING ACT TO INCLUDE FUNDS THAT INVEST IN CERTAIN MINORITY-OWNED SMALL BUSINESSES WITHIN THE DEFINITION OF "NEW MEXICO VENTURE CAPITAL FUND".

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 by Laws 2000, Chapter 76, Section 1 and also by Laws 2000, Chapter 97, Section 2) is amended to read:

"7-27-5.15. NEW MEXICO VENTURE CAPITAL FUND AND SMALL BUSINESS INVESTMENTS. --

A. No more than three percent of the market value of the severance tax permanent fund may be invested in New Mexico venture capital funds under this section.

B. If an investment is made under Subsection A of this section, not more than fifteen million dollars (\$15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico venture capital fund. Except as provided in Subsection F of this section, the amount invested in any one New Mexico venture capital fund shall not exceed fifty percent of the committed capital of that fund.

C. In making investments pursuant to Subsection A

of this section, the council shall give consideration to investments in New Mexico venture capital funds:

(1) whose investments enhance the economic development objectives of the state; and

(2) that invest in minority-owned small businesses.

D. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and upon review of the recommendation of the venture capital investment advisory committee. The state investment officer is authorized to make investments pursuant to Subsection A of this section contingent upon a New Mexico venture capital fund securing paid-in investments from other accredited investors for the balance of the minimum committed capital of the fund.

E. As used in this section:

(1) "committed capital" means the sum of the fixed amounts of money which accredited investors have obligated for investment in a New Mexico venture capital fund and which fixed amounts may be invested in that fund on one or more payments over time;

(2) "New Mexico venture capital fund" means:

(a) a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a

full-time investment officer in New Mexico that: 1) has as its primary business activity the investment of funds in return for equity in businesses for the purpose of providing capital for start-up, expansion, product or market development or similar business purposes; 2) holds out the prospects for capital appreciation from such investments; 3) has a minimum committed capital of fifteen million dollars (\$15,000,000); 4) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established permanent residency in the state; 5) is committed to investing or helps secure investing by others in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in the state and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in the state; and 6) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, (15 U.S.C. Section 77(b)) and rules and regulations promulgated pursuant to that section; or

(b) a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office in New Mexico

that: 1) has as its primary business activity the investment of funds in return for equity in minority-owned small businesses in New Mexico for the purpose of providing capital for start-up, expansion, product or market development or similar business purposes; 2) holds out the prospects for capital appreciation from such investments; 3) has a minimum committed capital of three million dollars (\$3,000,000); 4) has a manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established permanent residency in the state; 5) is committed to investing or helps secure investing by others in businesses with a principal place of business in the state and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in the state; and 6) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, (15 U.S.C. Section 77(b)) and rules and regulations promulgated pursuant to that section; and

(3) "minority-owned small business" means a business:

(a) not less than fifty-one percent of the ownership interest of which is held by individuals who are women or of Hispanic, Native American, African-American



