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AN ACT

RELATING TO ECONOMIC DEVELOPMENT; PROVIDING FOR EXPANDED
INVESTMENT OBJECTIVES OF THE STATE INVESTMENT OFFICER.

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 2001, Chapter 238, Section 1 and by Laws 2001,
Chapter 252, Section 10) is amended to read:

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

A. No more than six 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, upon review of the
recommendation of the private equity investment advisory committee 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 with its principal office and a majority of its full-
time employees located in New Mexico or, in the case of a limited partnership, a
business with its principal place of business and eighty percent of its assets located in
New Mexico; and

(2) "New Mexico private equity fund" means a limited
partnership, limited liability company or corporation organized and operating in the

1 United States and maintaining an office staffed by a full-time investment officer in New
2 Mexico that:

3 (a) has as its primary business activity the investment
4 of funds in return for equity in or debt of businesses for the purpose of providing
5 capital for start-up, expansion, product or market development, recapitalization or
6 similar business purposes;

7 (b) holds out the prospects for capital appreciation
8 from such investments;

9 (c) has at least one full-time manager with at least
10 three years of professional experience in assessing the growth prospects of
11 businesses or evaluating business plans and who has established permanent
12 residency in the state;

13 (d) is committed to investing or helps secure investing
14 by others, in an amount at least equal to the total investment made by the state
15 investment officer in that fund pursuant to this section, in businesses with a principal
16 place of business in the state and that hold promise for attracting additional capital
17 from individual or institutional investors nationwide for businesses in the state; and

18 (e) accepts investments only from accredited investors
19 as that term is defined in Section 2 of the federal Securities Act of 1933, as amended,
20 (15 USCA Section 77(b)) and rules and regulations promulgated pursuant to that
21 section.

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

25 (1) the investments are made in conjunction with cooperative
investment agreements with parties that have demonstrated abilities and relationships
in making investments in new, emerging or expanding businesses;

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

1 (3) the investments represent no more than fifty-one percent of S
2 the total investment capital in a business; provided, however, that nothing in this B
3 subsection prohibits the ownership of more than fifty-one percent of the total 7
4 investment capital in a New Mexico business if the additional ownership interest: 7
5 (a) is due to foreclosure or other action by the state P
6 investment officer pursuant to agreements with the business or other investors in that a
7 business; 9
8 (b) is necessary to protect the investment; and e
9 (c) does not require an additional investment of the 3
10 severance tax permanent fund.

11 F. The state investment officer shall make a commitment to the small
12 business investment corporation pursuant to the Small Business Investment Act to
13 invest one-fourth percent of the market value of the severance tax permanent fund by
14 July 1, 2001 to create new job opportunities by providing capital for land, buildings or
15 infrastructure for facilities to support new or expanding businesses and to otherwise
16 make investments to create new job opportunities to support new or expanding
17 businesses in a manner consistent with the constitution of New Mexico. On July 1,
18 2003 and on each July 1 thereafter, the state investment officer shall determine
19 whether the invested capital in the small business investment corporation is less than
20 one-fourth percent of the market value of the severance tax permanent fund. If the
21 invested capital in the small business investment corporation equals less than one-
22 fourth percent of the market value of the severance tax permanent fund, further
23 commitments shall be made until the invested capital is equal to one-fourth percent of
24 the market value of the fund.

25 G. The state investment officer shall report semiannually on the New
Mexico private equity investments made pursuant to this section. Annually, a report
shall be submitted to the legislature prior to the beginning of each regular legislative
session and a second report no later than October 1 each year to the legislative
finance committee, the revenue stabilization and tax policy committee and any other

1 appropriate interim committee. Each report shall provide the amounts invested in each
2 New Mexico private equity fund, as well as information about the objectives of the
3 funds, the companies in which each fund is invested and how each investment
4 enhances the economic development objectives of the state. Each report shall
5 provide the amounts invested in each New Mexico business."

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