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HOUSE BILL 844

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO THE SEVERANCE TAX PERMANENT FUND; AMENDING A SECTION OF THE NMSA 1978 PERTAINING TO REQUIREMENTS FOR INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN NEW MEXICO PRIVATE EQUITY FUNDS; COMPILING PROVISIONS OF LAWS 2001, CHAPTER 238, SECTION 1; DECLARING AN EMERGENCY.

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 [~~FUND~~] FUNDS 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

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1 Mexico private equity funds under this section.

2 B. If an investment is made under Subsection A of
3 this section, not more than fifteen million dollars
4 (\$15,000,000) of the amount authorized for investment pursuant
5 to Subsection A of this section shall be invested in any one
6 New Mexico private equity fund. The amount invested in any one
7 New Mexico private equity fund shall not exceed fifty percent
8 of the committed capital of that fund.

9 C. In making investments pursuant to Subsection A
10 of this section, the council shall give consideration to
11 investments in New Mexico private equity funds whose
12 investments enhance the economic development objectives of the
13 state.

14 D. The state investment officer shall make
15 investments pursuant to Subsection A of this section only upon
16 approval of the council and upon review of the recommendation
17 of the private equity investment advisory committee. The state
18 investment officer is authorized to make investments pursuant
19 to Subsection A of this section contingent upon a New Mexico
20 private equity fund securing paid-in investments from other
21 accredited investors for the balance of the minimum committed
22 capital of the fund.

23 E. As used in this section:

24 (1) "committed capital" means the sum of the
25 fixed amounts of money that accredited investors have obligated

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1 for investment in a New Mexico private equity fund and which
2 fixed amounts may be invested in that fund on one or more
3 payments over time; and

4 (2) "New Mexico private equity fund" means any
5 limited partnership, limited liability company or corporation
6 organized and operating in the United States and maintaining an
7 office staffed by a full-time investment officer in New Mexico
8 that:

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

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

16 (c) has a minimum committed capital of
17 [~~fifteen million dollars (\$15,000,000)~~] seven million five
18 hundred thousand dollars (\$7,500,000);

19 (d) has at least one full-time manager
20 with at least three years of professional experience in
21 assessing the growth prospects of businesses or evaluating
22 business plans and who has established permanent residency in
23 the state;

24 (e) is committed to investing or helps
25 secure investing by others in an amount at least equal to the

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1 total investment made by the state investment officer in that
2 fund pursuant to this section, in businesses with a principal
3 place of business in the state and that hold promise for
4 attracting additional capital from individual or institutional
5 investors nationwide for businesses in the state; and

6 (f) accepts investments only from
7 accredited investors as that term is defined in Section 2 of
8 the federal Securities Act of 1933, as amended, (15 U.S.C.
9 Section 77(b)) and rules and regulations promulgated pursuant
10 to that section.

11 F. The state investment officer shall make a
12 commitment to the small business investment corporation
13 pursuant to the Small Business Investment Act to invest one-
14 fourth of one percent of the market value of the severance tax
15 permanent fund by July 1, 2001 to create new job opportunities
16 by providing land, buildings or infrastructure for facilities
17 to support new or expanding businesses. If invested capital in
18 the small business investment corporation should at any time
19 fall below one-fourth of one percent of the market value of the
20 severance tax permanent fund, further commitments shall be made
21 until the invested capital is equal to one-fourth of one
22 percent of the market value of the fund. As used in this
23 subsection, "invested capital" means the original capital
24 contributed less any return of cost by the private equity
25 funds.

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

14 Section 2. EMERGENCY.--It is necessary for the public
15 peace, health and safety that this act take effect immediately.