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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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