

1 HOUSE BILL 104

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

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10 AN ACT

11 RELATING TO PUBLIC FINANCES; ENACTING THE VENTURE CAPITAL
12 PROGRAM ACT; CREATING A FUND; PROVIDING FOR INVESTMENTS IN
13 CERTAIN NEW MEXICO BUSINESSES AND PRIVATE EQUITY FUNDS; MAKING
14 AN APPROPRIATION.

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

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Venture Capital Program Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Venture Capital Program Act:

21 A. "authority" means the New Mexico finance
22 authority;

23 B. "New Mexico business" means, in the case of a
24 corporation or limited liability company, a business with its
25 principal office and a majority of its full-time employees

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1 located in New Mexico or, in the case of a limited partnership,
2 a business with its principal place of business and at least
3 eighty percent of its assets located in New Mexico; and

4 C. "venture private equity fund" means an entity
5 that makes, manages or sources potential investments in New
6 Mexico businesses and that:

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

12 (2) holds out prospects for capital
13 appreciation from such investments;

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

17 (4) is committed to investing or helps secure
18 investing by others, in an amount at least equal to the total
19 investment made by the authority in that fund pursuant to the
20 Venture Capital Program Act, in New Mexico businesses and that
21 hold promise for attracting additional capital from individual
22 or institutional investors nationwide for businesses in New
23 Mexico; and

24 (5) accepts investments only from accredited
25 investors, as that term is defined in the federal Securities

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1 Act of 1933, as amended, and rules and regulations promulgated
2 pursuant to that section, or federally recognized Indian
3 nations, tribes and pueblos with at least five million dollars
4 (\$5,000,000) in overall investment assets.

5 SECTION 3. [NEW MATERIAL] VENTURE CAPITAL PROGRAM FUND.--

6 A. The "venture capital program fund" is created in
7 the authority. The fund consists of appropriations, gifts,
8 grants, deposits, transfers, donations and money earned from
9 investment of the fund and otherwise accruing to the fund. The
10 authority shall administer the fund. Money in the fund is
11 appropriated to the authority for investment in New Mexico
12 businesses and venture private equity funds pursuant to the
13 Venture Capital Program Act and to pay the cost of
14 administering that act. Balances remaining in the fund at the
15 end of a fiscal year shall not revert. Money from the fund may
16 be drawn only on warrants approved by the chief executive
17 officer of the authority pursuant to vouchers signed by the
18 chief financial officer of the authority.

19 B. The authority shall adopt rules governing the
20 terms and conditions of investments made from the venture
21 capital program fund. The authority may make investments from
22 the venture capital program fund as permitted pursuant to
23 Subsection A of Section 4 of the Venture Capital Program Act
24 without specific authorization by law.

25 SECTION 4. [NEW MATERIAL] INVESTMENTS--QUALIFICATIONS--

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1 BOARD APPROVAL.--

2 A. In making investments pursuant to the Venture
3 Capital Program Act, the authority shall make:

4 (1) investments in venture private equity
5 funds; or

6 (2) early stage investments in New Mexico
7 businesses whose investments or enterprises enhance the
8 economic development objectives of the state, as determined by
9 the economic development department statewide economic
10 development strategic plan.

11 B. The authority is authorized to make investments
12 in New Mexico businesses to create new job opportunities and to
13 support new, emerging or expanding businesses in a manner
14 consistent with the constitution of New Mexico if:

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

19 (2) an investment in any one business or
20 industry does not exceed ten percent of the balance of the
21 venture capital program fund; and

22 (3) the investments represent no more than
23 fifty-one percent of the total investment capital in a
24 business; provided, however, that nothing in this subsection
25 prohibits the ownership of more than fifty-one percent of the

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1 total investment capital in a New Mexico business if the
2 additional ownership interest:

3 (a) is due to foreclosure or other
4 action by the authority pursuant to agreements with the
5 business or other investors in that business;

6 (b) is necessary to protect the
7 investment; and

8 (c) does not require an additional
9 investment of the fund.

10 C. The authority shall make investments pursuant to
11 the Venture Capital Program Act only upon approval of the board
12 of directors of the authority and within guidelines and
13 policies established by the board.

14 SECTION 5. [NEW MATERIAL] BOND--BUDGET.--

15 A. Before a responsible employee of the authority
16 enters upon the employee's duties, the authority shall require
17 an individual bond for that employee or shall include all
18 employees of the authority under a blanket bond for an amount
19 and for a coverage deemed best to protect the state's interest.
20 The bond premiums shall be paid by the venture capital program
21 fund.

22 B. The authority shall annually prepare a budget
23 for administering and investing all funds managed by the
24 venture capital program, which shall be reviewed and approved
25 by the board of directors of the authority. Funds provided for

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1 the operating budget of the venture capital program may be made
2 from the assets of the venture capital program fund or any
3 other funds managed by the authority, as authorized by law.

4 SECTION 6. [NEW MATERIAL] COMPROMISE--ADJUSTMENT.--In the
5 event of default in the payment of principal of or interest on
6 an investment made, the authority is authorized to institute
7 proper proceedings to collect matured interest and principal;
8 the authority may, after consultation with the board of
9 directors of the authority, accept for exchange purposes
10 refunding bonds or other evidences of indebtedness at interest
11 rates to be agreed upon with the obligor. The authority, after
12 consultation with the board of directors of the authority, is
13 authorized to adjust past-due interest or principal in default.

14 SECTION 7. [NEW MATERIAL] REPORTS.--No later than July 1
15 of each year, the authority shall submit a report to the
16 legislative finance committee, the revenue stabilization and
17 tax policy committee and any other appropriate interim
18 legislative committee. The report shall provide for the prior
19 calendar year the amounts invested in each venture private
20 equity fund, as well as information about the objectives of the
21 funds, the companies in which each venture private equity fund
22 is invested and how each venture private equity investment
23 enhances the economic development objectives of the state.
24 Each report shall also provide the amounts invested in each New
25 Mexico business during the prior calendar year.

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SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.