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AN ACT

RELATING TO PUBLIC FINANCE; AMENDING THE VENTURE CAPITAL PROGRAM ACT; REVISING THE DEFINITION OF "VENTURE PRIVATE EQUITY FUND"; REVISING INVESTMENT GUIDELINES; ELIMINATING BOND REQUIREMENTS FOR NEW MEXICO FINANCE AUTHORITY EMPLOYEES; PROVIDING AN EXCEPTION TO THE INSPECTION OF PUBLIC RECORDS ACT.

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

SECTION 1. Section 6-33-1 NMSA 1978 (being Laws 2022, Chapter 21, Section 1) is amended to read:

"6-33-1. SHORT TITLE.--Chapter 6, Article 33 NMSA 1978 may be cited as the "Venture Capital Program Act"."

SECTION 2. Section 6-33-2 NMSA 1978 (being Laws 2022, Chapter 21, Section 2) is amended to read:

"6-33-2. DEFINITIONS.--As used in the Venture Capital Program Act:

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

B. "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 at least eighty percent of its assets located in

1 New Mexico; and

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

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

10 (2) holds out prospects for capital
11 appreciation from such investments;

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

16 (4) accepts investments only from accredited
17 investors, as that term is defined in the federal Securities
18 Act of 1933, as amended, and rules and regulations
19 promulgated pursuant to that section, or federally recognized
20 Indian nations, tribes and pueblos with at least five million
21 dollars (\$5,000,000) in overall investment assets."

22 SECTION 3. Section 6-33-4 NMSA 1978 (being Laws 2022,
23 Chapter 21, Section 4) is amended to read:

24 "6-33-4. INVESTMENTS--QUALIFICATIONS--BOARD APPROVAL.--

25 A. In making investments pursuant to the Venture

1 Capital Program Act, the authority shall make:

2 (1) investments in venture private equity
3 funds; or

4 (2) early stage investments in New Mexico
5 businesses whose investments or enterprises enhance the
6 economic development objectives of the state.

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

11 (1) an investment in any one business does
12 not exceed ten percent of the balance of the venture capital
13 program fund;

14 (2) an investment in any one industry does
15 not exceed thirty percent of the balance of the venture
16 capital program fund; and

17 (3) the investments represent no more than
18 fifty-one percent of the total investment capital in a
19 business; provided, however, that nothing in this subsection
20 prohibits the ownership of more than fifty-one percent of the
21 total investment capital in a New Mexico business if the
22 additional ownership interest:

23 (a) is due to foreclosure or other
24 action by the authority pursuant to agreements with the
25 business or other investors in that business;

1 (b) is necessary to protect the
2 investment; and

3 (c) does not require an additional
4 investment of the fund.

5 C. In making investments pursuant to the Venture
6 Capital Program Act, the authority may make differential rate
7 investments for economic development purposes.

8 D. The authority shall make investments pursuant
9 to the Venture Capital Program Act only upon approval of the
10 board of directors of the authority and within guidelines and
11 policies established by the board."

12 SECTION 4. Section 6-33-5 NMSA 1978 (being Laws 2022,
13 Chapter 21, Section 5) is amended to read:

14 "6-33-5. BUDGET.--The authority shall annually prepare
15 a budget for administering and investing all funds managed by
16 the venture capital program, which shall be reviewed and
17 approved by the board of directors of the authority. Funds
18 provided for the operating budget of the venture capital
19 program may be made from the assets of the venture capital
20 program fund or any other funds managed by the authority, as
21 authorized by law."

22 SECTION 5. A new section of the Venture Capital Program
23 Act is enacted to read:

24 "PROPRIETARY INFORMATION--CONFIDENTIALITY.--Information
25 obtained by the authority in order to make investments from

