

## Summary of Economically Targeted Investments

All Economically Targeted Investments (ETIs) exist only in the Severance Tax Permanent Fund. The nature, types, amounts and restrictions of these investments are controlled by statute, which specifically allows the State Investment Council additional latitude when choosing ETI investments, including consideration of additional external investment benefits beyond pure return on investment, such as economic development. These statutory authorizations allow the Council to make ETI investments at differential, or “below market” rates, if additional benefits are apparent. The following table summarizes these investments by statutory citation, and additional information follows.

Item No.	Statute	Description	Market Value @ 6/30/13	Restrictions on Investment (US\$/Percent)
1.	7-27-5.3	Mortgage Pass-Through Securities Secured by New Mexico Real Estate	\$10,259	\$100 MM Face per Year
2.	7-27-5.4	New Mexico Business Investments	\$1,236,829	20% of STPF
3.	7-27-5.5	Educational Loan Notes	None	\$10 MM/Yr 10% of STPF
4.	7-27-5.13	Educational Institution Research & Development Facilities Revenue Bonds	None	10% of STPF
5.	7-27-5.15	New Mexico Private Equity Funds and Business Investments*	\$201,869,984	9% of STPF
		Small Business Investment Corporation	\$35,843,165	1% of STPF Required by Statute
6.	7-27-5.17	Employers Mutual Company Revenue Bonds	None	\$10 MM
7.	7-27-5.22	Investments in Obligations Issued under Section 33-1-19 for Corrections Facilities	None	None Stated
8.	7-27-5.24	Investments in Obligations Issued for State Capitol Buildings and Renovations	\$1,827,482	\$10.155 MM
9.	7-27-5.26	Investment in Films to be Produced in New Mexico	\$15,000,000	6% of STPF
	Totals		\$255,787,719	

\*The NM Private Equity Investment Program (NMPEIP) has been managed as a market-rate program since 2004, with economic development, job creation and other related benefits being only a secondary consideration.

## Economically Targeted Investments Statutes

Economically Targeted Investments exist only in the Severance Tax Permanent Fund and are those deemed to be “differential rate” investments as listed in 7-27-5. Following is list of these investments by statute citation:

1. **7-27-5.3** Conventional Mortgage Pass-Through Securities Secured by New Mexico Real Estate
  - a. Limited to \$100 million face amount each fiscal year
  - b. Yield based on comparable GNMA securities
  - c. Eligible securities are limited to those created and issued by a mortgage pooling corporation which has purchased eligible mortgages from mortgage lenders authorized to originate mortgages in New Mexico and which maintains a permanent manned office within New Mexico, although the Council may also purchase such conventional mortgage pass-through securities directly from such qualified mortgage lenders.
  - d. Conventional mortgage pass-through securities eligible for purchase are limited to such securities issued by the Federal National Mortgage Association or issued by a governmental agency representing an undivided ownership interest in a pool of mortgage loans.
  - e. Both the mortgage pooling corporation and the qualified mortgage lender are subject to regulations promulgated by the Council shall enter into written agreements specifying the powers and duties of each.
  - f. Eligible securities shall be based on mortgage loans that are:
    - i. Originated by a qualified mortgage lender
    - ii. Secured by a single-family dwelling to be occupied by the owner
    - iii. A conventional mortgage, deed of trust or other security instrument creating a first lien against the fee simple in real estate situated in New Mexico upon which there is constructed a permanent structure
    - iv. Not to exceed a thirty year original term
    - v. Made by a person domiciled in New Mexico
    - vi. Without prepayment penalties
    - vii. Not to exceed the dollar limit for Federal National Mortgage Association approved mortgages
  - g. Eligible securities are based on mortgage loans on new construction for at least sixty percent of the dollar amount of the securities.
  
2. **7-27-5.4** New Mexico Business Investments
  - a. No more than 20% of the book value of the Severance Tax Fund may be invested in the following investment.
  - b. No more than 10% of book value of the severance tax permanent fund can be invested in notes or obligations securing loans to New Mexico business made by Farm Credit Entities, Banks and Savings & Loans and mortgages approved by HUD under the SBA Act of 1953 or the Farmer’s Home Administration Act of 1946
  - c. The investment is limited to the extent that both principal and interest are guaranteed by the United States government.
  - d. The effective yield of these loans shall not be less than the yield available on the planned amortized class tranche of collateralized mortgage obligations guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with an average life comparable to the maturity of the loan.
  - e. Servicing fees are not to exceed 150 basis points and the rate paid by the borrower on the loan together with the servicing fees are not to exceed the maximum rate permitted by the applicable federal guarantee program
  - f. In addition, no more than another 10% of the book value of the severance tax fund may be invested in bonds, notes or debentures or other indebtedness, excluding commercial paper, rated not less than Baa or BBB or the equivalent by a national rating service, of any corporation organized and operating within the United States, excluding regulated public

utilities, that will use the proceeds to establish or expand business outlets or ventures in New Mexico

- g. The investment shall not exceed 100% of the cost of the expansion venture or new outlet or \$20 million, whichever is less
- h. The rate of interest to be paid shall not be less than the equivalent yield available on US treasury issues of a comparable maturity plus 100 basis points
- i. The investment shall be approved prior to purchase by the Council and guidelines for initiation of the purchase and the terms shall be established by the Council.

**3. 7-27-5.5 Educational Loan Notes**

- a. The Severance Tax Permanent Fund may be invested in educational loan notes issued pursuant to the Educational Assistance Act [21-21A-1 to 21-21A-23 NMSA 1978]
- b. The principal amount of the notes purchased in any 12 month period shall not exceed \$10 million.
- c. The total of such notes shall not exceed 10% of the book value of the Severance Tax Fund
- d. Any such notes sold are done so without recourse to the Fund or the state.

**4. 7-27-5.13 Educational Institution Research and Development Facilities Revenue Bonds**

- a. No more than 10% of the book value of the Severance Tax Fund can be invested in educational institution revenue bonds
- b. These revenue bonds shall have been issued by one of the following educational institutions:
  - i. University of New Mexico
  - ii. New Mexico State University
  - iii. New Mexico Highlands University
  - iv. Western New Mexico University
  - v. Eastern New Mexico University
  - vi. New Mexico Institute of Mining and Technology
- c. These bonds must be issued under the authority of Chapter 6, Article 17 NMSA 1978
- d. The bonds must provide funds for the construction, furnishing and equipping of a research or development facility, including any infrastructure improvements necessary to the construction.
- e. The facility must be one that will:
  - i. Provide space for operations of an already funded research or development project
  - ii. Be income-producing when completed and occupied
  - iii. Provide both the local community in which it's located and the state generally with economic benefits including, but not limited to, employment for students of post-secondary educations institutions.

**5. 7-27-5.15 New Mexico Private Equity Funds and Business Investments**

- a. No more than 9% of the market value of the Severance Tax Fund may be invested in New Mexico private equity funds or New Mexico businesses.
- b. These investments or enterprises must enhance the economic development objectives of the state
- c. The State Investment Officer shall makes such investments only upon approval of the Council, upon review of the recommendation of the Private Equity Investment Advisory Committee (PEIAC) and within guidelines and policies established by the Council
- d. A "New Mexico business" is a corporation or limited liability company with its principal office and majority of its full-time employees located in New Mexico. If a limited partnership, its principal office and 80% of its assets must be located in New Mexico.
- e. A "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the US and maintaining an office in New Mexico staffed by a full-time investment officer in New Mexico that:
  - i. Has as its primary business activity the investment of funds in return for equity or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes

- ii. Holds out the prospect for capital appreciation from such investments
  - iii. Has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established residency in the state
  - iv. Is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund, in businesses with a principal place of business in the state and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in the state
  - v. Accepts investments only from accredited investors as defined in the federal Securities Act of 1933.
- f. The State Investment Officer is also authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the New Mexico constitution if:
- i. The investments are made in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making such investments in new, emerging or expanding businesses; or
  - ii. In New Mexico aerospace businesses that have received an award from the US government or one of its agencies in an amount not less than \$100 million and that is equal to at least ten times the investment from the Severance Tax Fund and is for the purpose of stimulating commercial enterprises
  - iii. An investment in any one business does not exceed 10 percent of the amount available for investment pursuant to this section
  - iv. The investments represent no more than 51% of the total investment capital in a business
    - 1. Provided, however, that nothing prohibits the ownership of more than 51% of the total investment capital in a New Mexico business if the additional ownership interest:
      - a. Is due to foreclosure or other action by the State Investment Officer pursuant to agreements with the business or other investors in that business
      - b. Is necessary to protect the investment; and
      - c. Does not require an additional investment of the Severance Tax Fund.
- g. Also, the State investment Officer is required to make a commitment to the Small Business Investment Corporation (SBIC) pursuant to 58-29-1 NMSA 1978 of 1% of the market value of the Severance Tax Fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses in a manner consistent with the New Mexico constitution
- i. This commitment must be evaluated every July 1 and if the cumulative invested capital in the SBIC is less than 1% of the market value of the Severance Tax Fund, further commitments shall be made to bring the total invested capital to 1% of the market value of the Fund
  - ii. If the cumulative invested capital in the SBIC is greater than 1%, no additional investment by the State Investment Officer is required
  - iii. Annually, the SBIC must return to the Severance Tax Fund an amount equal to the net excess of funds held by the SBIC
    - 1. "Net excess of funds" means the return on investments to the SBIC in the amount of dividends and interest actually received plus any capital gains actually realized, less the operating expenses of the SBIC and less amounts reasonably reserved for losses.
    - 2. The SBIC has only returned net excess funds once in December 2004 in an amount of \$126,294.38.

## 6. 7-27-5.17 Employers Mutual Company Revenue Bonds

- a. The Severance Tax Fund may invest in revenue bonds issued by the Employers Mutual Company under the authority of 52-9-1 NMSA 1978
- b. The amount invested shall not exceed \$10 million
- c. The bonds shall bear interest at a market rate not less than the yield for 10 year treasury bonds on the date on the bond sale.

**7. 7-27-5.22 Investment in Obligations issued under Section 33-1-19 NMSA 1978 for Correctional Facilities**

- a. Allows the Council to approve the investment in bonds, certificates of participation or other obligations issued pursuant to Section 33-1-19 for corrections related facilities by the Severance Tax Fund.

**8. 7-27-5.24 Investment in Obligations Issued for State Capitol Buildings and Renovations**

- a. Allows the Council to approve investment by the Severance Tax Fund in revenue bonds issued by the New Mexico Finance Authority for State Capitol buildings and relocation-associated renovations in the state capitol
- b. The amount invested can not exceed \$10,155,000

**9. 7-27-5.26 Investment in Films to be Produced in New Mexico**

- a. No more than 6% of the market value of the Severance Tax Fund may be invested in New Mexico film private equity funds or a New Mexico film project
- b. No more than \$15 million shall be invested in any one New Mexico film private equity fund or any one New Mexico
- c. Such investments can only be made by the State Investment Officer upon approval of the Council after a review by the PEIAC and the New Mexico film office
- d. The investment may be equity or debt and must meet the following:
  - i. The film project is wholly or substantially filmed in New Mexico
  - ii. The project has shown to the satisfaction of the New Mexico Film Office that a distribution contract is in place with a reputable distribution company
  - iii. Has agreed that a majority of the production crew will be New Mexico residents
  - iv. Has posted a completion bond approved by the New Mexico film office. A completion bond is not required if the fund or project is guaranteed by one of the following:
    - 1. From an entity that has a credit rating of not less than Baa or BBB by a national rating agency
    - 2. From a substantial subsidiary of an entity that has a credit rating of not less than Baa or BBB by a national rating agency
    - 3. By providing a full, unconditional and irrevocable letter of credit from a US incorporated bank with a credit rating of not less than A by a national rating agency
    - 4. From a substantial and solvent entity as determined by the Council in accordance with its standards and practices; or
  - v. If not guaranteed as described above, the fund or project must obtain no less than one-third of the estimated total production costs from other sources as approved by the State Investment Officer
  - vi. A "film project" is defined as a single media or multimedia program, including advertising messages, fixed on film, videotape, computer disc, laser disc or other similar delivery medium from which the program can be viewed or reproduced and that is intended to be exhibited in theaters; licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means; or licensed for the home viewing market.