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FISCAL IMPACT REPORT

SPONSOR:	Kidd	DATE TYPED:	02/11/00	HB	
SHORT TITLE:	Small Business Investments			SB	201/aSFC
				ANALYST:	Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
	Indeterminate		Recurring	STPF

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

State Investment Council (SIC)

SUMMARY

Synopsis of SFC Amendment

The effect of the SFC amendment is to increase the percent of the STPF that may invest in venture capital funds for one percent to three percent. The amendment also increases the maximum amount that may be invested in one fund from \$7.5 million to fifteen million, as well as putting (on the prospective venture fund) the minimum amount on the committed capital that is already invested at \$15 million. This last provision helps separate the "wheat" from the "chafe" as there are many start-up funds that try to solicit the SIC for investment. This amendment also makes the provisional 3 percent/\$15 million limits very similar to House Bill 114's changes.

Synopsis of Bill

SB201 would amend the current Severance Tax Bonding Act, 7-27-5.15, NMSA in several ways:

1. Reduces the maximum amount of the market value of the severance tax permanent fund (STPF) that may be invested in New Mexico venture capital funds to three-fourths of one percent from the current one percent.
2. Mandates the investment of one-fourth of one percent of the market value of the STPF in a newly created small business investment corporation (SBIC) by July 1, 2001.
3. Establishes the SBIC as a nonprofit, independent, public corporation for the purpose of creating new job opportunities by investing in the equity of New Mexico small businesses.
4. Sets forth the make-up of a board of directors for the SBIC.

FISCAL IMPLICATIONS

No appropriations are contained in the bill. The State Investment Council reports that the investment of STPF capital in small businesses could result in a negative impact due to the relatively higher risk of small business investment.

CONFLICT

The SIC reports that Paragraph F of SB201 requires the state investment officer (SIO) make an investment of 1/4% of the STPF market value in the SBIC. The requirement to invest a fixed amount in a risky asset is a potential conflict with the fiduciary requirements of prudence placed on the state investment officer and state investment council under the statutes and Constitution of New Mexico.

TECHNICAL ISSUES

The required 1/4% investment in SBIC by the State Investment Officer conflicts with the provision that investment decisions are made only upon approval of the State Investment Council.

The SIC points out a possible drafting error in Section 6(A)(2) that the SIC is authorized to "hold redeemable preferred stock of a small business for a fixed period of time not to exceed ten years and have rural development business and industrial loans approved by the United States small business administration or the United States department of agriculture" It appears the underlined language does not apply to this paragraph and was inadvertently duplicated from Section 6,A, (1), (a), or additional language needs to be added to clarify the purpose.

JBE/gm