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SENATE BILL 618

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO PUBLIC FINANCE; REQUIRING THE STATE INVESTMENT OFFICER TO INVEST BETWEEN SIX AND TEN PERCENT OF THE MARKET VALUE OF THE SEVERANCE TAX PERMANENT FUND IN LOCAL ECONOMIC DEVELOPMENT AND INFRASTRUCTURE PROJECTS; REMOVING AUTHORIZATION FOR STATE INVESTMENT COUNCIL INVESTMENTS IN PRIVATE EQUITY FUNDS, NEW MEXICO BUSINESSES AND THE SMALL BUSINESS INVESTMENT CORPORATION.

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 BUSINESS INVESTMENTS~~] LOCAL ECONOMIC DEVELOPMENT AND INFRASTRUCTURE PROJECTS.--

A. [~~No more than nine~~] Between six and ten percent

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1 of the market value of the severance tax permanent fund [~~may~~]
2 shall be invested in [~~New Mexico private equity funds or New~~
3 ~~Mexico businesses~~] local economic development and
4 infrastructure projects under this section.

5 B. [~~In making investments~~] Pursuant to Subsection A
6 of this section, the state investment officer, with the
7 approval of the council, shall make investments in [~~New Mexico~~
8 ~~private equity funds or New Mexico businesses whose investments~~
9 ~~or enterprises enhance the economic development objectives of~~]
10 land, buildings, roads and other fixed assets of municipalities
11 and counties as necessary to attract and maintain business
12 development in the state.

13 [~~G. The state investment officer shall make~~
14 ~~investments pursuant to Subsection A of this section only upon~~
15 ~~approval of the council, upon review of the recommendation of~~
16 ~~the private equity investment advisory committee and within~~
17 ~~guidelines and policies established by the council.~~

18 D. ~~As used in this section:~~

19 (1) ~~"New Mexico business" means, in the case~~
20 ~~of a corporation or limited liability company, a business with~~
21 ~~its principal office and a majority of its full-time employees~~
22 ~~located in New Mexico or, in the case of a limited partnership,~~
23 ~~a business with its principal place of business and eighty~~
24 ~~percent of its assets located in New Mexico; and~~

25 (2) ~~"New Mexico private equity fund" means a~~

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1 ~~limited partnership, limited liability company or corporation~~
2 ~~organized and operating in the United States and maintaining an~~
3 ~~office staffed by a full-time investment officer in New Mexico~~
4 ~~that:~~

5 ~~(a) has as its primary business activity~~
6 ~~the 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 ~~similar business purposes;~~

10 ~~(b) holds out the prospects for capital~~
11 ~~appreciation from such investments;~~

12 ~~(c) has at least one full-time manager~~
13 ~~with at least three years of professional experience in~~
14 ~~assessing the growth prospects of businesses or evaluating~~
15 ~~business plans and who has established permanent residency in~~
16 ~~the state;~~

17 ~~(d) is committed to investing or helps~~
18 ~~secure investing by others, in an amount at least equal to the~~
19 ~~total investment made by the state investment officer in that~~
20 ~~fund pursuant to this section, in businesses with a principal~~
21 ~~place of business in the state and that hold promise for~~
22 ~~attracting additional capital from individual or institutional~~
23 ~~investors nationwide for businesses in the state; and~~

24 ~~(e) accepts investments only from~~
25 ~~accredited investors as that term is defined in Section 2 of~~

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1 ~~the federal Securities Act of 1933, as amended (15 USCA Section~~
2 ~~77(b)), and rules and regulations promulgated pursuant to that~~
3 ~~section, or federally recognized Indian tribes, nations and~~
4 ~~pueblos with at least five million dollars (\$5,000,000) in~~
5 ~~overall investment assets.~~

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

11 ~~(1) the investments are made:~~

12 ~~(a) in conjunction with cooperative~~
13 ~~investment agreements with parties that have demonstrated~~
14 ~~abilities and relationships in making investments in new,~~
15 ~~emerging or expanding businesses;~~

16 ~~(b) in a New Mexico aerospace business~~
17 ~~that has received an award from the United States government or~~
18 ~~one of its agencies or instrumentalities: 1) in an amount, not~~
19 ~~less than one hundred million dollars (\$100,000,000), that is~~
20 ~~equal to at least ten times the investment from the severance~~
21 ~~tax permanent fund; and 2) for the purpose of stimulating~~
22 ~~commercial enterprises; or~~

23 ~~(c) in a New Mexico business that: 1)~~
24 ~~is established to perform technology transfer, research and~~
25 ~~development, research commercialization, manufacturing,~~

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1 ~~training, marketing or public relations in any field of science~~
2 ~~or technology, including but not limited to energy, security,~~
3 ~~defense, aerospace, automotives, electronics,~~
4 ~~telecommunications, computer and information science,~~
5 ~~environmental science, biomedical science, life science,~~
6 ~~physical science, materials science or nanoscience, using~~
7 ~~research developed in whole or in part by a state institution~~
8 ~~of higher education or a prime contractor designated as a~~
9 ~~national laboratory by an act of congress that is operating a~~
10 ~~facility in the state, or an affiliated entity; and 2) has an~~
11 ~~agreement to operate the business on state lands;~~

12 ~~(2) an investment in any one business does not~~
13 ~~exceed ten percent of the amount available for investment~~
14 ~~pursuant to this section; and~~

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

21 ~~(a) is due to foreclosure or other~~
22 ~~action by the state investment officer pursuant to agreements~~
23 ~~with the business or other investors in that business;~~

24 ~~(b) is necessary to protect the~~
25 ~~investment; and~~

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