

HOUSE BILL 104

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

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

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

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

.221615.6AIC February 9, 2022 (9:10am)

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SECTION 2. [NEW MATERIAL] 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 New Mexico; and

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

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

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

(3) 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;

(4) is committed to investing or helps secure investing by others, in an amount at least equal to the total

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investment made by the authority in that fund pursuant to the Venture Capital Program Act, in New Mexico businesses and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

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

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

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

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

SECTION 4. [NEW MATERIAL] INVESTMENTS--QUALIFICATIONS--
BOARD APPROVAL.--

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

(1) investments in venture private equity funds; or

(2) early stage investments in New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state ~~HAFCA~~, ~~as determined by the economic development department statewide economic development strategic plan~~ ←HAFCA.

B. The authority is 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 constitution of New Mexico if:

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

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

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

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

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

A. Before a responsible employee of the authority enters upon the employee's duties, the authority shall require an individual bond for that employee or shall include all employees of the authority under a blanket bond for an amount

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and for a coverage deemed best to protect the state's interest. The bond premiums shall be paid by the venture capital program fund.

B. The authority shall annually prepare a budget for administering and investing all funds managed by the venture capital program, which shall be reviewed and approved by the board of directors of the authority. Funds provided for the operating budget of the venture capital program may be made from the assets of the venture capital program fund or any other funds managed by the authority, as authorized by law.

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

SECTION 7. [NEW MATERIAL] REPORTS.--No later than July 1 of each year, the authority shall submit a report to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim legislative committee. The report shall provide for the prior

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calendar year the amounts invested in each venture private equity fund, as well as information about the objectives of the funds, the companies in which each venture private equity fund is invested and how each venture private equity investment enhances the economic development objectives of the state. Each report shall also provide the amounts invested in each New Mexico business during the prior calendar year.

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

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