

SENATE BILL 162

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Pete Campos

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 THE SEVERANCE TAX PERMANENT FUND; CHANGING THE AMOUNT OF THE FUND TO BE INVESTED IN NEW MEXICO PRIVATE EQUITY FUNDS OR NEW MEXICO BUSINESSES.

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 NEW

.229471.3AIC February 19, 2025 (5:04pm)

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MEXICO BUSINESS INVESTMENTS.--

A. STBTC→~~[In addition to the investments required by Subsections F and G of this section]~~←STBTC STBTC→In addition to the investments required by Subsections A and G of this section←STBTC STBTC→No←STBTC STBTC→, no←STBTC more than [eleven percent of the market value] STBTC→~~seven hundred million dollars (\$700,000,000)~~←STBTC STBTC→one billion dollars (\$1,000,000,000)←STBTC of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in New Mexico private equity funds or New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "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 eighty

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percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(a) 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 similar business purposes;

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

(c) 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;

(d) 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 pursuant to this section, in businesses with a principal place of business in New Mexico and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section

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77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer 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:

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

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

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science

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or technology, including STBTC→~~but not limited to~~←STBTC
STBTC→but not limited to←STBTC energy, security, defense,
aerospace, automotives, electronics, telecommunications,
computer and information science, environmental science,
biomedical science, life science, physical science, materials
science or nanoscience, using research developed in whole or in
part by a state institution of higher education or a prime
contractor designated as a national laboratory by an act of
congress that is operating a facility in the state, or an
affiliated entity; and 2) has an agreement to operate the
business on state lands;

(2) an investment in any one business does not
exceed ten percent of the amount available for investment
pursuant to this section; 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 state investment officer pursuant to agreements
with the business or other investors in that business;

(b) is necessary to protect the
investment; and

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(c) does not require an additional investment of the severance tax permanent fund.

F. STBTC→~~[In addition to the investments required by Subsections A and G of this section]~~←STBTC STBTC→In addition to the investments required by Subsections A and G of this section←STBTC STBTC→The←STBTC STBTC→, the←STBTC state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest two percent of the market value of the severance tax permanent fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico. On July 1 of each year, the state investment officer shall determine whether the invested capital in the small business investment corporation is less than two percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than two percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to two percent of the market value of the fund.

G. STBTC→~~[In addition to the investments provided for in Subsections A and F of this section]~~←STBTC STBTC→In

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addition to the investments provided for in Subsections A and F of this section ←STBTC STBTC→ ~~The~~ ←STBTC STBTC→, the ←STBTC state investment officer shall make a commitment to the New Mexico finance authority to invest five hundred million dollars (\$500,000,000) of the severance tax permanent fund in investments made pursuant to the Small Business Recovery and Stimulus Act; provided that:

(1) investments made pursuant to and in compliance with the Small Business Recovery and Stimulus Act shall be deemed to be in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) the New Mexico finance authority shall not be held liable for investments made pursuant to this subsection that do not provide a return on investment that is comparable to other differential rate investments made pursuant to the Severance Tax Bonding Act.

H. The state investment officer shall report semiannually on the investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information

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about the objectives of the funds, the companies in which each private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

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