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HOUSE BILL 12

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Joseph M Thompson

AN ACT

**RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND;
REQUIRING THE STATE INVESTMENT OFFICER TO REPORT SEMI ANNUALLY
TO THE LEGISLATURE AND TO APPROPRIATE INTERIM LEGISLATIVE
COMMITTEES ON THE NEW MEXICO VENTURE CAPITAL INVESTMENT
PROGRAM**

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 by Laws 2000, Chapter 76,
Section 1 and also by Laws 2000, Chapter 97, Section 2) is
amended to read:**

**"7-27-5.15. NEW MEXICO VENTURE CAPITAL FUND AND SMALL
BUSINESS INVESTMENTS. --**

**A. No more than three percent of the market value
of the severance tax permanent fund may be invested in New**

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1 Mexico venture capital funds under this section.

2 B. If an investment is made under Subsection A of
3 this section, not more than fifteen million dollars
4 (\$15,000,000) of the amount authorized for investment pursuant
5 to Subsection A of this section shall be invested in any one
6 New Mexico venture capital fund. The amount invested in any
7 one New Mexico venture capital fund shall not exceed fifty
8 percent of the committed capital of that fund.

9 C. In making investments pursuant to Subsection A
10 of this section, the council shall give consideration to
11 investments in New Mexico venture capital funds whose
12 investments enhance the economic development objectives of the
13 state.

14 D. The state investment officer shall make
15 investments pursuant to Subsection A of this section only upon
16 approval of the council and upon review of the recommendation
17 of the venture capital investment advisory committee. The
18 state investment officer is authorized to make investments
19 pursuant to Subsection A of this section contingent upon a New
20 Mexico venture capital fund securing paid-in investments from
21 other accredited investors for the balance of the minimum
22 committed capital of the fund.

23 E. As used in this section:

24 (1) "committed capital" means the sum of the
25 fixed amounts of money which accredited investors have

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1 obligated for investment in a New Mexico venture capital fund
2 and which fixed amounts may be invested in that fund on one or
3 more payments over time; and

4 (2) "New Mexico venture capital fund" means
5 any limited partnership, limited liability company or
6 corporation organized and operating in the United States and
7 maintaining an office staffed by a full-time investment
8 officer in New Mexico that:

9 (a) has as its primary business
10 activity the investment of funds in return for equity in
11 businesses for the purpose of providing capital for start-up,
12 expansion, product or market development or similar business
13 purposes;

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

16 (c) has a minimum committed capital of
17 fifteen million dollars (\$15,000,000);

18 (d) has at least one full-time manager
19 with at least three years of professional experience in
20 assessing the growth prospects of businesses or evaluating
21 business plans and who has established permanent residency in
22 the state;

23 (e) is committed to investing or helps
24 secure investing by others in an amount at least equal to the
25 total investment made by the state investment officer in that

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1 fund pursuant to this section, in businesses with a principal
2 place of business in the state and that hold promise for
3 attracting additional capital from individual or institutional
4 investors nationwide for businesses in the state; and

5 (f) accepts investments only from
6 accredited investors as that term is defined in Section 2 of
7 the federal Securities Act of 1933, as amended, (15 U. S. C.
8 Section 77(b)) and rules and regulations promulgated pursuant
9 to that section.

10 F. The state investment officer shall make a
11 commitment to the small business investment corporation
12 pursuant to the Small Business Investment Act to invest one-
13 fourth of one percent of the market value of the severance tax
14 permanent fund by July 1, 2001 to create new job opportunities
15 by providing land, buildings or infrastructure for facilities
16 to support new or expanding businesses. If invested capital
17 in the small business investment corporation should at any
18 time fall below one-fourth of one percent of the market value
19 of the severance tax permanent fund, further commitments shall
20 be made until the invested capital is equal to one-fourth of
21 one percent of the market value of the fund.

22 G. The state investment officer shall report
23 semiannually on the New Mexico venture capital investments
24 made pursuant to this section. Annually, a report shall be
25 submitted to the legislature prior to the beginning of each

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1 regular legislative session and a second report no later than
2 October 1 each year to the legislative finance committee, the
3 revenue stabilization and tax policy committee and any other
4 appropriate interim committee. Each report shall provide the
5 amounts invested in each New Mexico venture capital fund, as
6 well as information about the objectives of the funds, the
7 companies in which each fund is invested and how each
8 investment enhances the economic development objectives of the
9 state. "

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