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**HOUSE BILL 599**

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

**INTRODUCED BY**

**Ben Lujan**

**AN ACT**

**RELATING TO THE INVESTMENT OF THE SEVERANCE TAX PERMANENT  
FUND; AMENDING THE SEVERANCE TAX BONDING ACT TO INCLUDE FUNDS  
THAT INVEST IN CERTAIN MINORITY-OWNED SMALL BUSINESSES WITHIN  
THE DEFINITION OF "NEW MEXICO VENTURE CAPITAL FUND".**

**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  
Mexico venture capital funds under this section.**

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

12                   (1) whose investments enhance the economic  
13 development objectives of the state; and

14                   (2) that invest in minority-owned small  
15 businesses.

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

25           E. As used in this section:

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1 (1) "committed capital" means the sum of the  
2 fixed amounts of money which accredited investors have  
3 obligated for investment in a New Mexico venture capital fund  
4 and which fixed amounts may be invested in that fund on one or  
5 more payments over time; [~~and~~]

6 (2) "New Mexico venture capital fund" means:

7 (a) [~~any~~] a limited partnership,  
8 limited liability company or corporation organized and  
9 operating in the United States and maintaining an office  
10 staffed by a full-time investment officer in New Mexico that:  
11 [~~(a)~~] 1 has as its primary business activity the investment  
12 of funds in return for equity in businesses for the purpose of  
13 providing capital for start-up, expansion, product or market  
14 development or similar business purposes; [~~(b)~~] 2 holds out  
15 the prospects for capital appreciation from such investments;  
16 [~~(c)~~] 3 has a minimum committed capital of fifteen million  
17 dollars (\$15,000,000); [~~(d)~~] 4 has at least one full-time  
18 manager with at least three years of professional experience  
19 in assessing the growth prospects of businesses or evaluating  
20 business plans and who has established permanent residency in  
21 the state; [~~(e)~~] 5 is committed to investing or helps secure  
22 investing by others in an amount at least equal to the total  
23 investment made by the state investment officer in that fund  
24 pursuant to this section, in businesses with a principal place  
25 of business in the state and that hold promise for attracting

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1 additional capital from individual or institutional investors  
2 nationwide for businesses in the state; and [~~(f)~~] 6) accepts  
3 investments only from accredited investors as that term is  
4 defined in Section 2 of the federal Securities Act of 1933, as  
5 amended, (15 U. S. C. Section 77(b)) and rules and regulations  
6 promulgated pursuant to that section; or

7 (b) a limited partnership, limited  
8 liability company or corporation organized and operating in  
9 the United States and maintaining an office in New Mexico  
10 that: 1) has as its primary business activity the investment  
11 of funds in return for equity in minority-owned small  
12 businesses in New Mexico for the purpose of providing capital  
13 for start-up, expansion, product or market development or  
14 similar business purposes; 2) holds out the prospects for  
15 capital appreciation from such investments; 3) has a minimum  
16 committed capital of three million dollars (\$3,000,000); 4)  
17 has a manager with at least three years of professional  
18 experience in assessing the growth prospects of businesses or  
19 evaluating business plans and who has established permanent  
20 residency in the state; 5) is committed to investing or helps  
21 secure investing by others in businesses with a principal  
22 place of business in the state and that hold promise for  
23 attracting additional capital from individual or institutional  
24 investors nationwide for businesses in the state; and 6)  
25 accepts investments only from accredited investors as that

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1 term is defined in Section 2 of the federal Securities Act of  
2 1933, as amended, (15 U.S.C. Section 77(b)) and rules and  
3 regulations promulgated pursuant to that section; and

4 (3) "minority-owned small business" means a  
5 business:

6 (a) not less than fifty percent of the  
7 ownership interest of which is held by individuals who are  
8 women or of Hispanic, Native American, African-American or  
9 Asian heritage;

10 (b) that is not a subsidiary or  
11 division of another business; and

12 (c) that has an average annual gross  
13 revenue for the preceding three fiscal years that does not  
14 exceed one million five hundred thousand dollars (\$1,500,000).

15 F. The amount invested in any one New Mexico  
16 venture capital fund, as defined in Subparagraph (b) of  
17 Paragraph (2) of Subsection E of this section, shall not  
18 exceed seventy-five percent of the committed capital of that  
19 fund.

20 [~~F.~~] G. The state investment officer shall make a  
21 commitment to the small business investment corporation  
22 pursuant to the Small Business Investment Act to invest one-  
23 fourth of one percent of the market value of the severance tax  
24 permanent fund by July 1, 2001 to create new job opportunities  
25 by providing land, buildings or infrastructure for facilities

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1 to support new or expanding businesses. If invested capital  
2 in the small business investment corporation should at any  
3 time fall below one-fourth of one percent of the market value  
4 of the severance tax permanent fund, further commitments shall  
5 be made until the invested capital is equal to one-fourth of  
6 one percent of the market value of the fund. "

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