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AN ACT

RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND;
PERMITTING INVESTMENT IN PRIVATE EQUITY FUNDS WITH TRIBAL
INVESTORS.

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.--

A. No more than six percent of the market value 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, upon review of the
recommendation of the private equity investment advisory
committee and within guidelines and policies established by
the council.

1 D. As used in this section:

2 (1) "New Mexico business" means, in the case
3 of a corporation or limited liability company, a business
4 with its principal office and a majority of its full-time
5 employees located in New Mexico or, in the case of a limited
6 partnership, a business with its principal place of business
7 and eighty percent of its assets located in New Mexico; and

8 (2) "New Mexico private equity fund" means a
9 limited partnership, limited liability company or corporation
10 organized and operating in the United States and maintaining
11 an office staffed by a full-time investment officer in New
12 Mexico that:

13 (a) has as its primary business
14 activity the investment of funds in return for equity in or
15 debt of businesses for the purpose of providing capital for
16 start-up, expansion, product or market development,
17 recapitalization or similar business purposes;

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

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

25 (d) is committed to investing or helps

1 secure investing by others, in an amount at least equal to
2 the total investment made by the state investment officer in
3 that fund pursuant to this section, in businesses with a
4 principal place of business in the state and that hold
5 promise for attracting additional capital from individual or
6 institutional investors nationwide for businesses in the
7 state; and

8 (e) accepts investments only from
9 accredited investors as that term is defined in Section 2 of
10 the federal Securities Act of 1933, as amended (15 USCA
11 Section 77(b)), and rules and regulations promulgated
12 pursuant to that section, or federally recognized Indian
13 tribes, nations and pueblos with at least five million
14 dollars (\$5,000,000) in overall investment assets.

15 E. The state investment officer is authorized to
16 make investments in New Mexico businesses to create new job
17 opportunities and to support new, emerging or expanding
18 businesses in a manner consistent with the constitution of
19 New Mexico if:

20 (1) the investments are made:

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

25 (b) in New Mexico aerospace businesses

1 that have received an award from the United States government
2 or one of its agencies or instrumentalities: 1) in an
3 amount, not less than one hundred million dollars
4 (\$100,000,000), that is equal to at least ten times the
5 investment from the severance tax permanent fund; and 2) for
6 the purpose of stimulating commercial enterprises;

7 (2) an investment in any one business does
8 not exceed ten percent of the amount available for investment
9 pursuant to this section; and

10 (3) the investments represent no more than
11 fifty-one percent of the total investment capital in a
12 business; provided, however, that nothing in this subsection
13 prohibits the ownership of more than fifty-one percent of the
14 total investment capital in a New Mexico business if the
15 additional ownership interest:

16 (a) is due to foreclosure or other
17 action by the state investment officer pursuant to agreements
18 with the business or other investors in that business;

19 (b) is necessary to protect the
20 investment; and

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

23 F. The state investment officer shall make a
24 commitment to the small business investment corporation
25 pursuant to the Small Business Investment Act to invest

1 three-fourths percent of the market value of the severance
2 tax permanent fund to create new job opportunities by
3 providing capital for land, buildings or infrastructure for
4 facilities to support new or expanding businesses and to
5 otherwise make investments to create new job opportunities to
6 support new or expanding businesses in a manner consistent
7 with the constitution of New Mexico. On July 1 of each year,
8 the state investment officer shall determine whether the
9 invested capital in the small business investment corporation
10 is less than three-fourths percent of the market value of the
11 severance tax permanent fund. If the invested capital in the
12 small business investment corporation equals less than
13 three-fourths percent of the market value of the severance
14 tax permanent fund, further commitments shall be made until
15 the invested capital is equal to three-fourths percent of the
16 market value of the fund.

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

1 well as information about the objectives of the funds, the
2 companies in which each fund is invested and how each
3 investment enhances the economic development objectives of
4 the state. Each report shall provide the amounts invested in
5 each New Mexico business."

6 Section 2. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2007. _____

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