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AN ACT

RELATING TO PUBLIC INVESTMENTS; INCREASING THE INVESTMENTS OF
THE SEVERANCE TAX PERMANENT FUND IN PRIVATE EQUITY FUNDS FROM
SIX TO NINE PERCENT.

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 nine 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.

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

18 (1) the investments are made:

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

23 (b) in New Mexico aerospace businesses
24 that have received an award from the United States government
25 or one of its agencies or instrumentalities: 1) in an

1 amount, not less than one hundred million dollars
2 (\$100,000,000), that is equal to at least ten times the
3 investment from the severance tax permanent fund; and 2) for
4 the purpose of stimulating commercial enterprises;

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

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

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

17 (b) is necessary to protect the
18 investment; and

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

21 F. The state investment officer shall make a
22 commitment to the small business investment corporation
23 pursuant to the Small Business Investment Act to invest
24 three-fourths percent of the market value of the severance
25 tax permanent fund to create new job opportunities by

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

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

1 investment enhances the economic development objectives of
2 the state. Each report shall provide the amounts invested in
3 each New Mexico business." _____

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