

1 SENATE BILL 162

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Pete Campos

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

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

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 7-27-5.15 NMSA 1978 (being Laws 1990,
17 Chapter 126, Section 5, as amended) is amended to read:

18 "7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW
19 MEXICO BUSINESS INVESTMENTS.--

20 A. [~~In addition to the investments required by~~
21 ~~Subsections F and G of this section]~~ No more than [~~eleven~~
22 ~~percent of the market value]~~ seven hundred million dollars
23 (\$700,000,000) of the severance tax permanent fund may be
24 invested in New Mexico private equity funds or New Mexico
25 businesses under this section.

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

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

10 D. As used in this section:

11 (1) "New Mexico business" means, in the case
12 of a corporation or limited liability company, a business with
13 its principal office and a majority of its full-time employees
14 located in New Mexico or, in the case of a limited partnership,
15 a business with its principal place of business and eighty
16 percent of its assets located in New Mexico; and

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

20 (a) has as its primary business activity
21 the investment of funds in return for equity in or debt of
22 businesses for the purpose of providing capital for start-up,
23 expansion, product or market development, recapitalization or
24 similar business purposes;

25 (b) holds out the prospects for capital

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1 appreciation from such investments;

2 (c) has at least one full-time manager
3 with at least three years of professional experience in
4 assessing the growth prospects of businesses or evaluating
5 business plans;

6 (d) is committed to investing or helps
7 secure investing by others, in an amount at least equal to the
8 total investment made by the state investment officer in that
9 fund pursuant to this section, in businesses with a principal
10 place of business in New Mexico and that hold promise for
11 attracting additional capital from individual or institutional
12 investors nationwide for businesses in New Mexico; and

13 (e) accepts investments only from
14 accredited investors as that term is defined in Section 2 of
15 the federal Securities Act of 1933, as amended (15 USCA Section
16 77(b)), and rules and regulations promulgated pursuant to that
17 section, or federally recognized Indian tribes, nations and
18 pueblos with at least five million dollars (\$5,000,000) in
19 overall investment assets.

20 E. The state investment officer is authorized to
21 make investments in New Mexico businesses to create new job
22 opportunities and to support new, emerging or expanding
23 businesses in a manner consistent with the constitution of New
24 Mexico if:

25 (1) the investments are made:

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

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

12 (c) in a New Mexico business that: 1)
13 is established to perform technology transfer, research and
14 development, research commercialization, manufacturing,
15 training, marketing or public relations in any field of science
16 or technology, including ~~[but not limited to]~~ energy, security,
17 defense, aerospace, automobiles, electronics,
18 telecommunications, computer and information science,
19 environmental science, biomedical science, life science,
20 physical science, materials science or nanoscience, using
21 research developed in whole or in part by a state institution
22 of higher education or a prime contractor designated as a
23 national laboratory by an act of congress that is operating a
24 facility in the state, or an affiliated entity; and 2) has an
25 agreement to operate the business on state lands;

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

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

10 (a) is due to foreclosure or other
11 action by the state investment officer pursuant to agreements
12 with the business or other investors in that business;

13 (b) is necessary to protect the
14 investment; and

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

17 F. ~~[In addition to the investments required by~~
18 ~~Subsections A and G of this section]~~ The state investment
19 officer shall make a commitment to the small business
20 investment corporation pursuant to the Small Business
21 Investment Act to invest two percent of the market value of the
22 severance tax permanent fund to create new job opportunities by
23 providing capital for land, buildings or infrastructure for
24 facilities to support new or expanding businesses and to
25 otherwise make investments to create new job opportunities to

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1 support new or expanding businesses in a manner consistent with
2 the constitution of New Mexico. On July 1 of each year, the
3 state investment officer shall determine whether the invested
4 capital in the small business investment corporation is less
5 than two percent of the market value of the severance tax
6 permanent fund. If the invested capital in the small business
7 investment corporation equals less than two percent of the
8 market value of the severance tax permanent fund, further
9 commitments shall be made until the invested capital is equal
10 to two percent of the market value of the fund.

11 G. ~~[In addition to the investments provided for in~~
12 ~~Subsections A and F of this section]~~ The state investment
13 officer shall make a commitment to the New Mexico finance
14 authority to invest five hundred million dollars (\$500,000,000)
15 of the severance tax permanent fund in investments made
16 pursuant to the Small Business Recovery and Stimulus Act;
17 provided that:

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

22 (2) the New Mexico finance authority shall not
23 be held liable for investments made pursuant to this subsection
24 that do not provide a return on investment that is comparable
25 to other differential rate investments made pursuant to the

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1 Severance Tax Bonding Act.

2 H. The state investment officer shall report
3 semiannually on the investments made pursuant to this section.
4 Annually, a report shall be submitted to the legislature prior
5 to the beginning of each regular legislative session and a
6 second report no later than October 1 each year to the
7 legislative finance committee, the revenue stabilization and
8 tax policy committee and any other appropriate interim
9 committee. Each report shall provide the amounts invested in
10 each New Mexico private equity fund, as well as information
11 about the objectives of the funds, the companies in which each
12 private equity fund is invested and how each private equity
13 investment enhances the economic development objectives of the
14 state. Each report also shall provide the amounts invested in
15 each New Mexico business."

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