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AN ACT

RELATING TO PUBLIC INVESTMENTS; ALLOWING FOR AN INCREASE  
IN THE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN  
NEW MEXICO PRIVATE EQUITY FUNDS OR NEW MEXICO BUSINESSES.

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  
NEW MEXICO BUSINESS INVESTMENTS.--

A. In addition to the investment required by  
Subsection F of this section, no more than eleven 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 and within guidelines and  
policies established by the council.

D. As used in this section:

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

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

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

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

17                   (c) has at least one full-time manager  
18 with at least three years of professional experience in  
19 assessing the growth prospects of businesses or evaluating  
20 business plans;

21                   (d) is committed to investing or helps  
22 secure investing by others, in an amount at least equal to  
23 the total investment made by the state investment officer in  
24 that fund pursuant to this section, in businesses with a  
25 principal place of business in New Mexico and that hold

1 promise for attracting additional capital from individual or  
2 institutional investors nationwide for businesses in  
3 New Mexico; and

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

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

16 (1) the investments are made:

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

21 (b) in a New Mexico aerospace business  
22 that has received an award from the United States government  
23 or one of its agencies or instrumentalities: 1) in an  
24 amount, not less than one hundred million dollars  
25 (\$100,000,000), that is equal to at least ten times the

1 investment from the severance tax permanent fund; and 2) for  
2 the purpose of stimulating commercial enterprises; or

3 (c) in a New Mexico business that:

4 1) is established to perform technology transfer, research  
5 and development, research commercialization, manufacturing,  
6 training, marketing or public relations in any field of  
7 science or technology, including energy, security, defense,  
8 aerospace, automotives, electronics, telecommunications,  
9 computer and information science, environmental science,  
10 biomedical science, life science, physical science, materials  
11 science or nanoscience, using research developed in whole or  
12 in part by a state institution of higher education or a prime  
13 contractor designated as a national laboratory by an act of  
14 congress that is operating a facility in the state, or an  
15 affiliated entity; and 2) has an agreement to operate the  
16 business on state lands;

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

20 (3) the investments represent no more than  
21 fifty-one percent of the total investment capital in a  
22 business; provided, however, that nothing in this subsection  
23 prohibits the ownership of more than fifty-one percent of the  
24 total investment capital in a New Mexico business if the  
25 additional ownership interest:

1 (a) is due to foreclosure or other  
2 action by the state investment officer pursuant to agreements  
3 with the business or other investors in that business;

4 (b) is necessary to protect the  
5 investment; and

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

8 F. In addition to the investments provided for in  
9 Subsection A of this section, the state investment officer  
10 shall make a commitment to the small business investment  
11 corporation pursuant to the Small Business Investment Act to  
12 invest two percent of the market value of the severance tax  
13 permanent fund to create new job opportunities by providing  
14 capital for land, buildings or infrastructure for facilities  
15 to support new or expanding businesses and to otherwise make  
16 investments to create new job opportunities to support new or  
17 expanding businesses in a manner consistent with the  
18 constitution of New Mexico. On July 1 of each year, the  
19 state investment officer shall determine whether the invested  
20 capital in the small business investment corporation is less  
21 than two percent of the market value of the severance tax  
22 permanent fund. If the invested capital in the small  
23 business investment corporation equals less than two percent  
24 of the market value of the severance tax permanent fund,  
25 further commitments shall be made until the invested capital

1 is equal to two percent of the market value of the fund.

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

16 SECTION 2. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2020. \_\_\_\_\_