

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 136

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Pete Campos

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 [~~nine~~] 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

underscoring material = new
~~[bracketed material] = delete~~

1 of this section, the council shall make investments in New
2 Mexico private equity funds or New Mexico businesses whose
3 investments or enterprises enhance the economic development
4 objectives of the state.

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

9 D. As used in this section:

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

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

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

24 (b) holds out the prospects for capital
25 appreciation from such investments;

.215991.3GLG

underscoring material = new
~~[bracketed material] = delete~~

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

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

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

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

24 (1) the investments are made:

25 (a) in conjunction with cooperative

underscoring material = new
~~[bracketed material] = delete~~

1 investment agreements with parties that have demonstrated
2 abilities and relationships in making investments in new,
3 emerging or expanding businesses;

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

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

25 (2) an investment in any one business does not

.215991.3GLG

underscored material = new
[bracketed material] = delete

1 exceed ten percent of the amount available for investment
2 pursuant to this section; and

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

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

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

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

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

underscoring material = new
~~[bracketed material] = delete~~

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

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

24 SECTION 2. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2020.

.215991.3GLG