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AN ACT

RELATING TO PUBLIC FINANCES; ENACTING THE VENTURE CAPITAL PROGRAM ACT; CREATING A FUND; PROVIDING FOR INVESTMENTS IN CERTAIN NEW MEXICO BUSINESSES AND PRIVATE EQUITY FUNDS; MAKING AN APPROPRIATION.

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

SECTION 1. SHORT TITLE.--This act may be cited as the "Venture Capital Program Act".

SECTION 2. DEFINITIONS.--As used in the Venture Capital Program Act:

A. "authority" means the New Mexico finance authority;

B. "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and at least eighty percent of its assets located in New Mexico; and

C. "venture private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(1) has as its primary business activity the investment of funds in return for equity in or debt of

1 businesses for the purpose of providing capital for start-up,  
2 expansion, product or market development, recapitalization or  
3 business purposes in early stages of development;

4 (2) holds out prospects for capital  
5 appreciation from such investments;

6 (3) has at least one full-time manager with  
7 at least three years of professional experience in assessing  
8 the growth prospects of businesses or evaluating business  
9 plans;

10 (4) is committed to investing or helps  
11 secure investing by others, in an amount at least equal to  
12 the total investment made by the authority in that fund  
13 pursuant to the Venture Capital Program Act, in New Mexico  
14 businesses and that hold promise for attracting additional  
15 capital from individual or institutional investors nationwide  
16 for businesses in New Mexico; and

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

23 SECTION 3. VENTURE CAPITAL PROGRAM FUND.--

24 A. The "venture capital program fund" is created  
25 in the authority. The fund consists of appropriations,

1 gifts, grants, deposits, transfers, donations and money  
2 earned from investment of the fund and otherwise accruing to  
3 the fund. The authority shall administer the fund. Money in  
4 the fund is appropriated to the authority for investment in  
5 New Mexico businesses and venture private equity funds  
6 pursuant to the Venture Capital Program Act and to pay the  
7 cost of administering that act. Balances remaining in the  
8 fund at the end of a fiscal year shall not revert. Money  
9 from the fund may be drawn only on warrants approved by the  
10 chief executive officer of the authority pursuant to vouchers  
11 signed by the chief financial officer of the authority.

12 B. The authority shall adopt rules governing the  
13 terms and conditions of investments made from the venture  
14 capital program fund. The authority may make investments  
15 from the venture capital program fund as permitted pursuant  
16 to Subsection A of Section 4 of the Venture Capital Program  
17 Act without specific authorization by law.

18 SECTION 4. INVESTMENTS--QUALIFICATIONS--BOARD  
19 APPROVAL.--

20 A. In making investments pursuant to the Venture  
21 Capital Program Act, the authority shall make:

22 (1) investments in venture private equity  
23 funds; or

24 (2) early stage investments in New Mexico  
25 businesses whose investments or enterprises enhance the

1 economic development objectives of the state.

2 B. The authority is authorized to make investments  
3 in New Mexico businesses to create new job opportunities and  
4 to support new, emerging or expanding businesses in a manner  
5 consistent with the constitution of New Mexico if:

6 (1) the investments are made in conjunction  
7 with cooperative investment agreements with parties that have  
8 demonstrated abilities and relationships in making  
9 investments in new, emerging or expanding businesses;

10 (2) an investment in any one business or  
11 industry does not exceed ten percent of the balance of the  
12 venture capital program fund; and

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

19 (a) is due to foreclosure or other  
20 action by the authority pursuant to agreements with the  
21 business or other investors in that business;

22 (b) is necessary to protect the  
23 investment; and

24 (c) does not require an additional  
25 investment of the fund.

1           C. The authority shall make investments pursuant  
2 to the Venture Capital Program Act only upon approval of the  
3 board of directors of the authority and within guidelines and  
4 policies established by the board.

5           **SECTION 5. BOND--BUDGET.--**

6           A. Before a responsible employee of the authority  
7 enters upon the employee's duties, the authority shall  
8 require an individual bond for that employee or shall include  
9 all employees of the authority under a blanket bond for an  
10 amount and for a coverage deemed best to protect the state's  
11 interest. The bond premiums shall be paid by the venture  
12 capital program fund.

13           B. The authority shall annually prepare a budget  
14 for administering and investing all funds managed by the  
15 venture capital program, which shall be reviewed and approved  
16 by the board of directors of the authority. Funds provided  
17 for the operating budget of the venture capital program may  
18 be made from the assets of the venture capital program fund  
19 or any other funds managed by the authority, as authorized by  
20 law.

21           **SECTION 6. COMPROMISE--ADJUSTMENT.--**In the event of  
22 default in the payment of principal of or interest on an  
23 investment made, the authority is authorized to institute  
24 proper proceedings to collect matured interest and principal;  
25 the authority may, after consultation with the board of

1 directors of the authority, accept for exchange purposes  
2 refunding bonds or other evidences of indebtedness at  
3 interest rates to be agreed upon with the obligor. The  
4 authority, after consultation with the board of directors of  
5 the authority, is authorized to adjust past-due interest or  
6 principal in default.

7 SECTION 7. REPORTS.--No later than July 1 of each year,  
8 the authority shall submit a report to the legislative  
9 finance committee, the revenue stabilization and tax policy  
10 committee and any other appropriate interim legislative  
11 committee. The report shall provide for the prior calendar  
12 year the amounts invested in each venture private equity  
13 fund, as well as information about the objectives of the  
14 funds, the companies in which each venture private equity  
15 fund is invested and how each venture private equity  
16 investment enhances the economic development objectives of  
17 the state. Each report shall also provide the amounts  
18 invested in each New Mexico business during the prior  
19 calendar year.

20 SECTION 8. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2022. \_\_\_\_\_

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