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HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 27

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO TAXATION; EXPANDING THE DEFINITION OF "QUALIFIED EXPENDITURE" IN THE TECHNOLOGY JOBS AND RESEARCH AND DEVELOPMENT TAX CREDIT ACT TO INCLUDE EXPENDITURES FOR PROPERTY THAT IS OWNED BY A MUNICIPALITY OR COUNTY IN CONNECTION WITH AN INDUSTRIAL REVENUE BOND PROJECT; ALLOWING TRANSFERABILITY FOR A LIMITED PERIOD.

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

SECTION 1. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended by Laws 2019, Chapter 270, Section 38 and by Laws 2019, Chapter 274, Section 12) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or

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1 indirectly owns or controls, is owned or controlled by or is
2 under common ownership or control with another person through
3 ownership of voting securities or other ownership interests
4 representing a majority of the total voting power of the
5 entity;

6 B. "annual payroll expense" means the wages paid or
7 payable to employees in the state by the taxpayer in the
8 taxable year for which the taxpayer applies for an additional
9 credit pursuant to the Technology Jobs and Research and
10 Development Tax Credit Act;

11 C. "base payroll expense" means the wages paid or
12 payable by the taxpayer in the taxable year prior to the
13 taxable year for which the taxpayer applies for an additional
14 credit pursuant to the Technology Jobs and Research and
15 Development Tax Credit Act, adjusted for any increase from the
16 preceding taxable year in the consumer price index for the
17 United States for all items as published by the United States
18 department of labor in the taxable year for which the
19 additional credit is claimed. In a taxable year during which a
20 taxpayer has been part of a business merger or acquisition or
21 other change in business organization, the taxpayer's base
22 payroll expense shall include the payroll expense of all
23 entities included in the reorganization for all positions that
24 are included in the business entity resulting from the
25 reorganization;

1 D. "data center" means a facility that primarily
2 contains electronic equipment used to process, store and
3 transmit digital information;

4 [D.] E. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 [E.] F. "facility" means a factory, mill, plant,
9 refinery, warehouse, dairy, feedlot, building or complex of
10 buildings located within the state, including the land on which
11 it is located and all machinery, equipment and other real and
12 tangible personal property located at or within it and used in
13 connection with its operation;

14 [F.] G. "local option gross receipts tax" means a
15 tax authorized to be imposed by a county or municipality upon a
16 taxpayer's gross receipts, as that term is defined in the Gross
17 Receipts and Compensating Tax Act, and required to be collected
18 by the department at the same time and in the same manner as
19 the gross receipts tax;

20 [G.] H. "qualified expenditure" means an
21 expenditure or an allocated portion of an expenditure by a
22 taxpayer in connection with qualified research at a qualified
23 facility, including expenditures for depletable land and rent
24 paid or incurred for land, improvements, the allowable amount
25 paid or incurred to operate or maintain a facility, buildings,

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1 equipment, computer software, computer software upgrades,
2 consultants and contractors performing work in New Mexico,
3 payroll, technical books and manuals and test materials, but
4 not including any expenditure on property that is owned by a
5 municipality or county in connection with an industrial revenue
6 bond project issued prior to January 1, 2025 for property for
7 which the taxpayer has received any credit pursuant to the
8 Investment Credit Act, property that was owned by the taxpayer
9 or an affiliate before July 3, 2000 or research and development
10 expenditures reimbursed by a person who is not an affiliate of
11 the taxpayer. If a "qualified expenditure" is an allocation of
12 an expenditure, the cost accounting methodology used for the
13 allocation of the expenditure shall be the same cost accounting
14 methodology used by the taxpayer in its other business
15 activities;

16 [H.] I. "qualified facility" means a facility in
17 New Mexico at which qualified research is conducted. [other
18 than] "Qualified facility" does not mean a facility operated by
19 a taxpayer for the United States or any agency, department or
20 instrumentality thereof, a facility in New Mexico designated as
21 a national laboratory by an act of congress, a research
22 facility in New Mexico that is owned by the state or a facility
23 that is a data center;

24 [H.] J. "qualified research" means research:

25 (1) that is undertaken for the purpose of

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1 discovering information:

2 (a) that is technological in nature; and
3 (b) the application of which is intended
4 to be useful in the development of a new or improved business
5 component of the taxpayer; and

6 (2) substantially all of the activities of
7 which constitute elements of a process of experimentation
8 related to a new or improved function, performance, reliability
9 or quality, but not related to style, taste or cosmetic or
10 seasonal design factors;

11 [J.] K. "qualified research and development small
12 business" means a taxpayer that:

13 (1) employed no more than fifty employees as
14 determined by the number of employees for which the taxpayer
15 was liable for unemployment insurance coverage in the taxable
16 year for which an additional credit is claimed;

17 (2) had total qualified expenditures of no
18 more than five million dollars (\$5,000,000) in the taxable year
19 for which an additional credit is claimed; and

20 (3) did not have more than fifty percent of
21 its voting securities or other equity interest with the right
22 to designate or elect the board of directors or other governing
23 body of the business owned directly or indirectly by another
24 business;

25 [K.] L. "rural area" means any area of the state

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1 other than the state fairgrounds, an incorporated municipality
2 with a population of thirty thousand or more according to the
3 most recent federal decennial census and any area within three
4 miles of the external boundaries of an incorporated
5 municipality with a population of thirty thousand or more
6 according to the most recent federal decennial census;

7 [L.] M. "taxpayer" means any of the following
8 persons, other than a federal, state or other governmental unit
9 or subdivision or an agency, department, institution or
10 instrumentality thereof:

11 (1) a person liable for payment of any tax;
12 (2) a person responsible for withholding and
13 payment or collection and payment of any tax;

14 (3) a person to whom an assessment has been
15 made if the assessment remains unabated or the assessed amount
16 has not been paid; or

17 (4) for purposes of the additional credit
18 against the taxpayer's income tax pursuant to the Technology
19 Jobs and Research and Development Tax Credit Act and to the
20 extent of their respective interest in that entity, the
21 shareholders, members, partners or other owners of:

22 (a) a small business corporation that
23 has elected to be treated as an S corporation for federal
24 income tax purposes; or

25 (b) an entity treated as a partnership

1 or disregarded entity for federal income tax purposes; and

2 [M.] N. "wages" means remuneration for services
3 performed by an employee in New Mexico for an employer."

4 SECTION 2. Section 7-9F-9 NMSA 1978 (being Laws 2000 (2nd
5 S.S.), Chapter 22, Section 9, as amended) is amended to read:

6 "7-9F-9. CLAIMING THE BASIC CREDIT.--

7 A. A taxpayer may apply for approval of [a] the
8 basic credit within one year following the end of the reporting
9 period in which the qualified expenditure was made. An
10 application shall include the certificate of eligibility
11 pursuant to Subsection B of this section.

12 B. If all of the requirements for the basic credit
13 have been complied with, the department shall issue to the
14 applicant a certificate of eligibility for the appropriate
15 taxable year. The certificate of eligibility shall be numbered
16 for identification and declare its date of issuance and the
17 amount of tax credit allowed.

18 C. For basic credits allowed for taxable years 2026
19 through 2028, a certificate of eligibility may be sold,
20 exchanged or otherwise transferred to another taxpayer;
21 provided that certificates for basic credits and additional
22 credits that exceed fifty million dollars (\$50,000,000) for a
23 taxable year shall not be transferred. The transfer of a
24 certificate of eligibility shall be allowed in the order that a
25 claim for the basic credit is received. The parties to a

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1 transaction to sell, exchange or transfer an additional credit
2 shall notify the department of the transaction within ten days
3 of the sale, exchange or transfer.

4 [B.] D. A taxpayer having applied for and been
5 granted approval for a basic credit by the department pursuant
6 to the Technology Jobs and Research and Development Tax Credit
7 Act may claim the amount of the approved basic credit against
8 the taxpayer's compensating tax, withholding tax or gross
9 receipts tax, excluding local option gross receipts tax, due to
10 the state of New Mexico; provided that no taxpayer may claim an
11 amount of approved basic credit for a reporting period in which
12 the basic credit is being claimed that exceeds the sum of the
13 taxpayer's compensating tax, withholding tax and gross receipts
14 tax, excluding local option gross receipts tax, due for that
15 reporting period.

16 [E.] E. Any amount of approved basic credit not
17 claimed against the taxpayer's compensating tax, withholding
18 tax or gross receipts tax, excluding local option gross
19 receipts tax, due may be claimed in subsequent reporting
20 periods for a period of up to [three] seven years from the date
21 of the original claim."

22 SECTION 3. Section 7-9F-9.1 NMSA 1978 (being Laws 2015
23 (1st S.S.), Chapter 2, Section 17) is amended to read:

24 "7-9F-9.1. CLAIMING THE ADDITIONAL CREDIT.--

25 A. A taxpayer may apply for approval of an
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1 additional credit pursuant to the Technology Jobs and Research
2 and Development Tax Credit Act within one year following the
3 end of the taxable year in which the qualified expenditure was
4 made. An application shall include the certificate of
5 eligibility pursuant to Subsection B of this section.

6 B. If all of the requirements for the additional
7 credit have been complied with, the department shall issue to
8 the applicant a certificate of eligibility for the appropriate
9 taxable year. The certificate of eligibility shall be numbered
10 for identification and declare its date of issuance and the
11 amount of tax credit allowed.

12 C. For additional credits allowed for taxable years
13 2026 through 2028, a certificate of eligibility may be sold,
14 exchanged or otherwise transferred to another taxpayer;
15 provided that certificates for basic credits and additional
16 credits that exceed fifty million dollars (\$50,000,000) for a
17 taxable year shall not be transferred. The transfer of a
18 certificate of eligibility shall be allowed in the order a
19 claim for the additional credit is received. The parties to a
20 transaction to sell, exchange or transfer an additional credit
21 shall notify the department of the transaction within ten days
22 of the sale, exchange or transfer.

23 [B.] D. A taxpayer that has applied for and been
24 granted approval for an additional credit by the department
25 pursuant to the Technology Jobs and Research and Development

1 Tax Credit Act may claim the amount of the approved additional
2 credit against the taxpayer's income tax or corporate income
3 tax liability. Except as provided in Subsection [E] E of this
4 section, no taxpayer may claim an amount of approved additional
5 credit for a taxable year in which the additional credit is
6 being claimed that exceeds the amount of the taxpayer's income
7 tax or corporate income tax due for that taxable year.

8 [E.] E. If a taxpayer is a qualified research and
9 development small business and the amount of approved
10 additional credit for the taxable year in which the additional
11 credit is being claimed exceeds the taxpayer's income tax
12 liability or corporate income tax liability, the excess shall
13 be refunded to the taxpayer pursuant to Paragraphs (1) through
14 (3) of this subsection. If the taxpayer's total qualified
15 expenditures for the taxable year for which the claim is made
16 is:

17 (1) less than three million dollars
18 (\$3,000,000), the excess additional credit shall be refunded to
19 the taxpayer;

20 (2) greater than or equal to three million
21 dollars (\$3,000,000) and less than four million dollars
22 (\$4,000,000), two-thirds of the excess additional credit shall
23 be refunded to the taxpayer; and

24 (3) greater than or equal to four million
25 dollars (\$4,000,000) and less than or equal to five million

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dollars (\$5,000,000), one-third of the excess additional credit shall be refunded to the taxpayer.

[D-] F. Any amount of approved additional credit not claimed against the taxpayer's income tax or corporate income tax due for a taxable year or refunded to the taxpayer may be claimed in subsequent reporting periods for a period of up to [three] seven years from the date of the original claim.

[E.] G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the additional credit that would have been claimed on a joint return."

SECTION 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2026.

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