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HOUSE BILL 194

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; AMENDING THE LABORATORY PARTNERSHIP WITH
SMALL BUSINESS TAX CREDIT ACT; INCREASING THE TAX CREDIT PER
QUALIFIED EXPENDITURE INCURRED; INCREASING THE AGGREGATE
ALLOWABLE TAX CREDIT; PERMITTING A SUPPLEMENTAL TAX CREDIT
UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. Section 7-9E-1 NMSA 1978 (being Laws 2000 (2nd
S.S.), Chapter 20, Section 1) is amended to read:

"7-9E-1. SHORT TITLE. -- [~~This act~~] Chapter 7, Article 9E
NMSA 1978 may be cited as the "Laboratory Partnership with
Small Business Tax Credit Act". "

Section 2. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd
S.S.), Chapter 20, Section 3) is amended to read:

"7-9E-3. DEFINITIONS. -- As used in the Laboratory

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1 Partnership with Small Business Tax Credit Act:

2 A. "base year" means the calendar year of January
3 1, 2003 through December 31, 2003;

4 [~~A.-~~] B. "contractor" means an entity that has the
5 capability to provide small business assistance, may enter into
6 a contract with a national laboratory to provide small business
7 assistance and is:

8 (1) an individual, estate, trust, receiver,
9 cooperative association, club, corporation, company, firm,
10 partnership, limited liability company, limited liability
11 partnership, joint venture, syndicate or other entity,
12 including any gas, water or electric utility owned or operated
13 by a county, municipality or other political subdivision of the
14 state; or

15 (2) [~~any~~] a national, federal, state, Indian
16 or other governmental unit or subdivision, or [~~any~~] an agency,
17 department or instrumentality of [~~any~~] a of the foregoing;

18 [~~B.-~~] C. "department" means the taxation and revenue
19 department, the secretary of taxation and revenue or any
20 employee of the department exercising authority lawfully
21 delegated to that employee by the secretary;

22 [~~C.-~~] D. "national laboratory" means a prime
23 contractor designated as a national laboratory by act of
24 congress that is operating a facility in New Mexico;

25 [~~D.-~~] E. "qualified expenditure" means an

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1 expenditure by a national laboratory in providing small
2 business assistance, limited to the following expenditures
3 incurred in providing the assistance:

4 (1) employee salaries, ~~[and]~~ wages and fringe
5 benefits and employer payroll taxes;

6 (2) ~~[fringe benefits, employer payroll taxes~~
7 ~~and other]~~ administrative costs related directly to the
8 provision of small business assistance, the total of which is
9 limited to forty-nine percent of ~~[employee salaries and wages]~~
10 the amount allowed pursuant to Paragraph (1) of this
11 subsection;

12 (3) in-state travel expenses, including per
13 diem and mileage at the internal revenue service standard
14 rates; and

15 (4) supplies and services of contractors
16 related to the provision of small business assistance;

17 ~~[E.]~~ F. "rural area" means any area of the state
18 other than a class A county that has a net taxable value for
19 rate-setting purposes for any property tax year of more than
20 seven billion dollars (\$7,000,000,000);

21 ~~[F.]~~ G. "small business" means a business in New
22 Mexico that conforms to the definition of small business found
23 in the federal Small Business Act (Public Law 85-536), as
24 amended; and

25 ~~[G.]~~ H. "small business assistance" means

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1 assistance rendered by a national laboratory related to the
2 transfer of technology, including software and manufacturing,
3 mining, oil and gas, environmental, agricultural, information
4 and solar and other alternative energy source technologies.

5 "Small business assistance" also includes nontechnical
6 assistance related to expanding the New Mexico base of
7 suppliers, including training and mentoring individual small
8 businesses; assistance in developing business systems to meet
9 audit, reporting and quality assistance requirements; and other
10 supplier development initiatives for individual small
11 businesses. "

12 Section 3. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd
13 S.S.), Chapter 20, Section 7) is amended to read:

14 "7-9E-7. TAX CREDITS--AMOUNTS.--Each tax credit provided
15 for pursuant to the Laboratory Partnership with Small Business
16 Tax Credit Act shall be an amount equal to the qualified
17 expenditure incurred by the national laboratory, not to exceed
18 [~~five thousand dollars (\$5,000)~~] ten thousand dollars (\$10,000)
19 for each small business outside of a rural area for which small
20 business assistance is rendered in a calendar year or [~~ten~~
21 ~~thousand dollars (\$10,000)~~] fifteen thousand dollars (\$15,000)
22 if the small business assistance was provided to a small
23 business located in a rural area. "

24 Section 4. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd
25 S.S.), Chapter 20, Section 8) is amended to read:

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1 "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--A national
2 laboratory eligible for the tax credit pursuant to the
3 Laboratory Partnership with Small Business Tax Credit Act may
4 claim the amount of each tax credit by crediting that amount
5 against gross receipts taxes otherwise due pursuant to the
6 Gross Receipts and Compensating Tax Act. The tax credit shall
7 be taken on each monthly gross receipts tax return filed by the
8 laboratory against gross receipts taxes due the state and shall
9 not impact any local government tax distribution. [~~In no event~~
10 ~~shall the tax credits taken exceed one million eight hundred~~
11 ~~thousand dollars (\$1,800,000)] The total tax credits issued by
12 the department pursuant to this section shall equal an amount
13 of at least two million five hundred thousand dollars
14 (\$2,500,000) but shall not exceed four million two hundred
15 thousand dollars (\$4,200,000) in a [given] calendar year."~~

16 Section 5. A new section of the Laboratory Partnership
17 with Small Business Tax Credit Act is enacted to read:

18 "[NEW MATERIAL] SUPPLEMENTAL TAX CREDIT.--

19 A. In addition to the tax credit authorized
20 pursuant to the Laboratory Partnership with Small Business Tax
21 Credit Act, a national laboratory may claim a tax credit in an
22 amount not to exceed one-third of the amount calculated by the
23 laboratory and approved by the department pursuant to
24 Subsection B of this section.

25 B. A supplemental credit shall not be taken

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1 pursuant to this section by a national laboratory pursuant to
2 the Laboratory Partnership with Small Business Tax Credit Act
3 unless the gross receipts tax due for a calendar year from that
4 national laboratory exceeds the gross receipts tax paid by the
5 national laboratory for the base year.

6 C. On the last day of each calendar year, a
7 national laboratory shall calculate the excess of gross
8 receipts taxes due for the calendar year over the gross
9 receipts taxes paid by the national laboratory for the base
10 year. The department shall approve or disapprove the amount
11 calculated within thirty days of submission of the amount
12 calculated by the national laboratory. "

13 Section 6. A new section of the Laboratory Partnership
14 with Small Business Tax Credit Act is enacted to read:

15 "[NEW MATERIAL] OVERSIGHT-- REPORTING. --

16 A. A national laboratory eligible for a tax credit
17 or a supplemental tax credit pursuant to the Laboratory
18 Partnership with Small Business Tax Credit Act shall report
19 quarterly to the department. A quarterly report shall be
20 provided within thirty days after the end of each calendar
21 quarter. The quarterly report shall include:

22 (1) information related to each small business
23 for which assistance is provided, including:

- 24 (a) the name of the small business;
25 (b) the address of the small business;

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- 1 (c) the county in which the small
2 business is located;
- 3 (d) identification of the small business
4 as being located within or outside of a rural area;
- 5 (e) the direct cost of the assistance,
6 including labor, fringe benefits, purchases and travel;
- 7 (f) the indirect costs of the
8 assistance;
- 9 (g) a description of the assistance
10 provided; and
- 11 (h) identification of the contractor or
12 other entity that provided the small business assistance;
- 13 (2) certification from the small business that
14 the small business could not receive the same service for a
15 reasonable cost from private industry;
- 16 (3) documentation by the national laboratory
17 that it exerted due diligence to determine that the small
18 business assistance is not otherwise available to the small
19 business at a reasonable cost from private industry; and
- 20 (4) identification of small businesses to
21 which assistance was denied and the reasons for denial.
- 22 B. An annual report shall be submitted by a
23 national laboratory providing small business assistance
24 pursuant to the Laboratory Partnership with Small Business Tax
25 Credit Act to the department, the economic development

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1 department and an appropriate legislative interim committee.
2 The annual report shall be submitted no later than June of each
3 year. The annual report shall summarize activities related to
4 and the results of its small business assistance program and
5 shall include:

6 (1) a summary of the program results and the
7 number of small businesses assisted in each county;

8 (2) a description of projects involving
9 multiple small businesses requiring the same type of small
10 business assistance and the results of the small business
11 assistance provided;

12 (3) results of surveys of the small businesses
13 to which small business assistance was rendered;

14 (4) the amount of tax credit claimed for the
15 calendar year on which the report is based; and

16 (5) an economic impact study of jobs created,
17 jobs retained, cost savings and increased sales of small
18 businesses for which small business assistance was rendered.

19 C. At any time after receipt of a report from a
20 national laboratory eligible for the tax credit authorized
21 pursuant to the Laboratory Partnership with Small Business Tax
22 Credit Act, the department may provide written instructions to
23 the national laboratory related to future improvements in the
24 laboratory's small business assistance program for which it is
25 receiving tax credits. "

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