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HOUSE BILL 526

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Abbas Akhil and Christine Chandler and Jason C. Harper and  
Joseph L. Sanchez

AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF "CONTRACTOR"  
IN THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT  
ACT; AMENDING NOTICE REQUIREMENTS TO A SMALL BUSINESS THAT  
RECEIVES ASSISTANCE FROM A NATIONAL LABORATORY OR THE  
LABORATORY'S CONTRACTOR; INCREASING THE AMOUNT OF CREDITS FOR  
EACH SMALL BUSINESS PURSUANT TO THE LABORATORY PARTNERSHIP WITH  
SMALL BUSINESS TAX CREDIT ACT.

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

**SECTION 1.** Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd  
S.S.), Chapter 20, Section 3, as amended) is amended to read:

"7-9E-3. DEFINITIONS.--As used in the Laboratory  
Partnership with Small Business Tax Credit Act:

A. "contractor":

(1) means a person that:

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1 (a) has the capability to provide small  
2 business assistance; and

3 (b) may enter into a contract with a  
4 national laboratory to provide small business assistance; and

5 (2) includes:

6 (a) a gas, water or electric utility  
7 owned or operated by a county, municipality or other political  
8 subdivision of the state; ~~[or]~~

9 (b) a national, federal, state, Indian  
10 or other governmental unit or subdivision, or an agency,  
11 department or instrumentality of any of the foregoing; or

12 (c) an organization that: 1)  
13 demonstrates to the department that the organization has been  
14 granted exemption from the federal income tax by the United  
15 States commissioner of internal revenue as organizations  
16 described in Section 501(c)(3) of the United States Internal  
17 Revenue Code of 1986, as that section may be amended or  
18 renumbered; and 2) has a place of business in New Mexico;

19 B. "department" means the taxation and revenue  
20 department, the secretary of taxation and revenue or an  
21 employee of the department exercising authority lawfully  
22 delegated to that employee by the secretary;

23 C. "national laboratory" means a prime contractor  
24 designated as a national laboratory by act of congress that is  
25 operating a facility in New Mexico;

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1           D. "qualified expenditure" means an expenditure by  
2 a national laboratory in providing small business assistance,  
3 limited to the following expenditures incurred in providing the  
4 assistance:

5                   (1) employee salaries, wages, fringe benefits  
6 and employer payroll taxes;

7                   (2) administrative costs related directly to  
8 the provision of small business assistance, the total of which  
9 is limited to forty-nine percent of employee salaries, wages,  
10 fringe benefits and employer payroll taxes;

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

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

16           E. "rural area" means an area of the state outside  
17 of the exterior boundaries of a class A county that has a net  
18 taxable value for rate-setting purposes for any property tax  
19 year of more than seven billion dollars (\$7,000,000,000);

20           F. "small business" means a business in New Mexico  
21 that conforms to the definition of small business found in the  
22 federal Small Business Act; and

23           G. "small business assistance" means assistance  
24 rendered by a national laboratory related to the transfer of  
25 technology, including software, manufacturing, mining, oil and

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1 gas, environmental, agricultural, information and solar and  
2 other alternative energy source technologies. "Small business  
3 assistance" includes nontechnical assistance related to  
4 expanding the New Mexico base of suppliers, including training  
5 and mentoring individual small businesses; assistance in  
6 developing business systems to meet audit, reporting and  
7 quality assurance requirements; and other supplier development  
8 initiatives for individual small businesses."

9 SECTION 2. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd  
10 S.S.), Chapter 20, Section 5, as amended) is amended to read:

11 "7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory  
12 is eligible for a tax credit in an amount equal to qualified  
13 expenditures if:

14 A. the small business assistance is rendered to a  
15 small business located in New Mexico;

16 B. the small business assistance is completed;

17 C. the small business certifies to the national  
18 laboratory that the small business assistance provided is not  
19 otherwise available to the small business at a reasonable cost  
20 through private industry;

21 D. the national laboratory provides written notice  
22 to each small business to which ~~[it]~~ the laboratory or a  
23 contractor of the laboratory is providing small business  
24 assistance ~~[of the option]~~ that the small business ~~[has to~~  
25 ~~obtain ownership of or]~~ is entitled to license to ~~[tangible or]~~

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underscored material = new  
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1 intangible property developed from the small business  
2 assistance or can obtain ownership of tangible or intangible  
3 property developed from the small business assistance;

4 E. the national laboratory requires small  
5 businesses to which it is providing small business assistance  
6 to acknowledge only after the small business assistance is  
7 completed that the small business assistance has been rendered;  
8 and

9 F. the national laboratory provides forms for small  
10 business requests and for completion of small business  
11 assistance that are in accordance with the Laboratory  
12 Partnership with Small Business Tax Credit Act and other  
13 applicable state and federal laws."

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

16 "7-9E-7. TAX CREDITS--AMOUNTS.--A tax credit provided  
17 pursuant to the Laboratory Partnership with Small Business Tax  
18 Credit Act shall be in an amount equal to the qualified  
19 expenditure incurred by the national laboratory to provide  
20 small business assistance to a specific small business, not to  
21 exceed [~~ten thousand dollars (\$10,000)~~] twenty thousand dollars  
22 (\$20,000) for each small business [~~located outside of a rural~~  
23 ~~area~~] for which small business assistance is rendered in a  
24 calendar year or [~~twenty thousand dollars (\$20,000)~~] forty  
25 thousand dollars (\$40,000) if the small business assistance was

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1 provided to a small business located in a rural area."

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

4 "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

5 A. A national laboratory eligible for the tax  
6 credit pursuant to the Laboratory Partnership with Small  
7 Business Tax Credit Act may claim the amount of each tax credit  
8 by crediting that amount against gross receipts taxes otherwise  
9 due pursuant to the Gross Receipts and Compensating Tax Act.  
10 The tax credit shall be taken on each monthly gross receipts  
11 tax return filed by the laboratory against gross receipts taxes  
12 due the state and shall not impact any local government tax  
13 distribution. In no event shall the tax credits taken by an  
14 individual national laboratory exceed two million four hundred  
15 thousand dollars (\$2,400,000) in a given calendar year.

16 B. Tax credits claimed pursuant to the Laboratory  
17 Partnership with Small Business Tax Credit Act by all national  
18 laboratories in the aggregate for qualified expenditures for a  
19 specific small business not located in a rural area shall not  
20 exceed [~~ten thousand dollars (\$10,000)~~] twenty thousand dollars  
21 (\$20,000).

22 C. Tax credits claimed pursuant to the Laboratory  
23 Partnership with Small Business Tax Credit Act by all national  
24 laboratories in the aggregate for qualified expenditures for a  
25 specific small business located in a rural area shall not

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1 exceed [~~twenty thousand dollars (\$20,000)~~] forty thousand  
2 dollars (\$40,000)."

3 SECTION 5. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2019.

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