

HOUSE BILL 255

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

INTRODUCED BY

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

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAXATION; CREATING A TEMPORARY TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT; CREATING THE TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND; MAKING A DISTRIBUTION TO THE TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND; PROVIDING A DELAYED REPEAL.

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

SECTION 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT--TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND.--

.215842.3AIC February 6, 2020 (1:55pm)

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A. For taxable periods beginning July 1, 2020 and prior to July 1, ~~HCEDC~~→2025←~~HCEDC~~ ~~HCEDC~~→2023←~~HCEDC~~, a taxpayer that is a national laboratory that provides technology readiness assistance to a business that is registered to do business in New Mexico and has licensed a technology from the national laboratory or is a participant in a cooperative research and development agreement with the national laboratory may claim a tax credit against the taxpayer's gross receipts tax liability imposed pursuant to the Gross Receipts and Compensating Tax Act, excluding any local option gross receipts tax liability. The tax credit provided by this section may be referred to as the "technology readiness gross receipts tax credit".

B. The purpose of the technology readiness gross receipts tax credit is to help businesses in New Mexico achieve technology maturation of the businesses' technologies developed at New Mexico national laboratories and increase economic development in the state.

C. The "technology readiness gross receipts tax credit fund" is created in the state treasury. The department shall administer the fund, and money in the fund shall be used to offset technology readiness gross receipts tax credits; provided that money in the fund is subject to appropriation by the legislature for any purpose. Technology readiness gross receipts tax credits shall not be credited against any other

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fund. If the department approves a technology readiness gross receipts tax credit, the amount of the credit shall be transferred from the fund to the general fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of taxation and revenue. Money in the fund shall revert to the general fund at the end of fiscal year HCEDC→2026←HCEDC HCEDC→2024←HCEDC.

D. Subject to the availability of funds in the technology readiness gross receipts tax credit fund, the amount of a technology readiness gross receipts tax credit shall equal the amount of qualified expenditures incurred by a national laboratory to provide technology readiness assistance to a business, not to exceed one hundred fifty thousand dollars (\$150,000) in a fiscal year per business; provided that the annual aggregate amount of credits allowed per national laboratory per fiscal year shall be limited as follows:

(1) beginning July 1, 2020 and prior to July 1, 2021, five hundred thousand dollars (\$500,000);

(2) beginning July 1, 2021 and prior to July 1, 2022, seven hundred fifty thousand dollars (\$750,000);

HCEDC→and←HCEDC

(3) beginning July 1, 2022 and prior to July 1, HCEDC→2024←HCEDC HCEDC→2023←HCEDC, one million dollars (\$1,000,000) HCEDC→; and←HCEDC HCEDC→.←HCEDC

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HCEDC → ~~(4) beginning July 1, 2024 and prior to July 1, 2025, one million five hundred thousand dollars (\$1,500,000).~~ ← HCEDC

E. A taxpayer may claim a technology readiness gross receipts tax credit for the taxable period in which the taxpayer provides technology assistance pursuant to this section. That portion of a technology readiness gross receipts tax credit that exceeds a taxpayer's tax liability in the taxable period in which the credit is claimed may be carried forward to succeeding taxable periods.

F. To receive a technology readiness gross receipts tax credit, a taxpayer shall apply to the department on forms and in the manner required by the department. The application shall include the following:

(1) certification from each business that received technology readiness assistance that:

(a) the assistance was made in good faith to help the business demonstrate the feasibility of real-world application of the business's technology; and

(b) the assistance was not otherwise available to the business at a reasonable cost through private industry;

(2) evidence that the business that received the technology readiness assistance is registered to do business in New Mexico; and

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(3) evidence that the business's technology is a licensed technology from the national laboratory or the business is a participant in a cooperative research and development agreement with the national laboratory.

G. In addition to the requirements in Subsection F of this section, a national laboratory shall:

(1) create forms for technology readiness assistance requests and completion of technology maturation;

(2) establish a technology readiness assistance program that will assist businesses to reach technology maturation;

(3) consult with the secretary of economic development to seek advice on improvements in the operation of the technology readiness assistance program; and

(4) establish a methodology to use state educational institutions that have demonstrated the capability to provide technology readiness assistance.

H. A taxpayer shall not claim both a technology readiness gross receipts tax credit and a credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act for assistance provided to the same business in the same taxable period.

I. If more than one national laboratory provides technology readiness assistance to a business, the national laboratories shall not claim a technology readiness gross

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receipts tax credit until coordination is developed between the national laboratories providing the assistance that generates a joint operational plan to ensure that:

(1) the assistance provided by each national laboratory suits the business's needs and challenges; and

(2) the combined claims for a technology readiness gross receipts tax credit will not exceed the limitations provided in Subsection D of this section.

J. A national laboratory that claims a technology readiness gross receipts tax credit shall submit an annual report in writing to the department, the economic development department and an appropriate legislative interim committee. If more than one national laboratory claims a technology readiness gross receipts tax credit, those laboratories shall jointly submit an annual report. The annual report shall summarize activities related to and the results of the technology readiness assistance programs created by the national laboratories and shall include:

(1) a description of each business's technology that has received technology readiness assistance, including progress toward technology maturation and whether, and to what extent, the business is still doing business in New Mexico;

(2) results of surveys of businesses to which technology readiness assistance is provided;

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(3) the total amount of the technology readiness gross receipts tax credits received in the previous fiscal year; and

(4) an economic impact study performed by an uninterested third party.

K. At any time after receipt of an annual report required pursuant to this section, the department or the economic development department may provide written instructions to a national laboratory identifying future improvements in the national laboratory's technology readiness assistance program for which it receives a technology readiness gross receipts tax credit.

L. As used in this section:

(1) "cooperative research and development agreement" means any agreement between a national laboratory and a non-federal party under which the laboratory provides personnel, services, facilities, equipment, intellectual property or other resources and a non-federal party provides funds, personnel, services, facilities, equipment, intellectual property or other resources toward the conduct of specified research or development efforts that are consistent with the missions of the laboratory;

(2) "national laboratory" means a prime contractor designated as a national laboratory by act of congress that is operating a facility in New Mexico;

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(3) "qualified expenditure" means an expenditure by a national laboratory in providing technology readiness assistance and is limited to the following:

(a) employee salaries, wages, benefits and employer payroll taxes;

(b) administrative costs related directly to the provision of technology readiness assistance;

(c) in-state travel expenses, including per diem and mileage at the internal revenue service standard rate; and

(d) supplies and services of contractors that are related to the provision of technology readiness assistance;

(4) "state educational institution" means a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(5) "technology maturation" means technology that has been developed to a stage that results in a prototype or demonstration of the feasibility of real-world application of the technology; and

(6) "technology readiness assistance" means assistance provided to a business by a national laboratory with the intent to help the business's technology achieve technology maturation."

SFC → ~~SECTION 2. TEMPORARY PROVISION--DISTRIBUTION TO~~

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~~TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND.--Prior to July 1, 2020, a one-time distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the technology readiness gross receipts tax fund in an amount equal to SFC→HCEDC→nine million five hundred thousand dollars (\$9,500,000)←HCEDC←SFC SFC→HCEDC→four million five hundred thousand dollars (\$4,500,000)←HCEDC ←SFC of the net receipts attributable to the gross receipts tax.~~←SFC

SFC→SECTION 2. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--GROSS RECEIPTS TAX-- TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND.--Beginning July 1, 2020 and prior to July 1, 2023, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the technology readiness gross receipts tax credit fund in an amount equal to one hundred twenty-five thousand dollars (\$125,000) of the net receipts attributable to the gross receipts tax."←SFC

SECTION 3. DELAYED REPEAL.--SFC→~~Section 1 of this act~~ is←SFC SFC→Sections 1 and 2 of this act are←SFC repealed effective July 1, HCEDC→2026←HCEDC HCEDC→2024←HCEDC.