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HOUSE BILL 67

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Christine Chandler and Jason C. Harper and Leo Jaramillo

AN ACT

RELATING TO TAXATION; EXTENDING THE TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT; REPEALING THE TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND; REPEALING THE CREDIT'S DELAYED REPEAL.

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

SECTION 1. Section 7-9-96.3 NMSA 1978 (being Laws 2020, Chapter 22, Section 1) is amended to read:

"7-9-96.3. TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT
[~~TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND~~].--

A. [~~For taxable periods beginning July 1, 2020 and prior to July 1, 2023~~] Prior to July 1, 2032, 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

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1 laboratory or is a participant in a cooperative research and
2 development agreement with the national laboratory may claim a
3 tax credit against the taxpayer's gross receipts tax liability
4 imposed pursuant to the Gross Receipts and Compensating Tax
5 Act, excluding any local option gross receipts tax liability.
6 The tax credit provided by this section may be referred to as
7 the "technology readiness gross receipts tax credit".

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

13 ~~[C. The "technology readiness gross receipts tax~~
14 ~~credit fund" is created in the state treasury. The department~~
15 ~~shall administer the fund, and money in the fund shall be used~~
16 ~~to offset technology readiness gross receipts tax credits;~~
17 ~~provided that money in the fund is subject to appropriation by~~
18 ~~the legislature for any purpose. Technology readiness gross~~
19 ~~receipts tax credits shall not be credited against any other~~
20 ~~fund. If the department approves a technology readiness gross~~
21 ~~receipts tax credit, the amount of the credit shall be~~
22 ~~transferred from the fund to the general fund. Disbursements~~
23 ~~from the fund shall be made upon warrants drawn by the~~
24 ~~secretary of finance and administration pursuant to vouchers~~
25 ~~signed by the secretary of taxation and revenue. Money in the~~

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1 ~~fund shall revert to the general fund at the end of fiscal year~~
2 ~~2024.~~

3 ~~D. Subject to the availability of funds in the~~
4 ~~technology readiness gross receipts tax credit fund]~~

5 C. The amount of a technology readiness gross
6 receipts tax credit shall equal the amount of qualified
7 expenditures incurred by a national laboratory to provide
8 technology readiness assistance to a business, not to exceed
9 one hundred fifty thousand dollars (\$150,000) in a fiscal year
10 per business; provided that the annual aggregate amount of
11 credits allowed per national laboratory per fiscal year shall
12 be limited ~~[as follows:~~

13 ~~(1) beginning July 1, 2020 and prior to July~~
14 ~~1, 2021, five hundred thousand dollars (\$500,000);~~

15 ~~(2) beginning July 1, 2021 and prior to July~~
16 ~~1, 2022, seven hundred fifty thousand dollars (\$750,000); and~~

17 ~~(3) beginning July 1, 2022 and prior to July~~
18 ~~1, 2023] to one million dollars (\$1,000,000).~~

19 ~~[E.]~~ D. A taxpayer may claim a technology readiness
20 gross receipts tax credit for the taxable period in which the
21 taxpayer provides technology assistance pursuant to this
22 section. That portion of a technology readiness gross receipts
23 tax credit that exceeds a taxpayer's tax liability in the
24 taxable period in which the credit is claimed may be carried
25 forward to succeeding taxable periods.

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1 ~~[F.]~~ E. To receive a technology readiness gross
2 receipts tax credit, a taxpayer shall apply to the department
3 on forms and in the manner required by the department. The
4 application shall include the following:

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

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

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

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

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

20 ~~[G.]~~ F. In addition to the requirements in
21 Subsection ~~[F]~~ E of this section, a national laboratory shall:

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

24 (2) establish a technology readiness
25 assistance program that will assist businesses to reach

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1 technology maturation;

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

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

8 [~~H.~~] G. A taxpayer shall not claim both a
9 technology readiness gross receipts tax credit and a credit
10 pursuant to the Laboratory Partnership with Small Business Tax
11 Credit Act for assistance provided to the same business in the
12 same taxable period.

13 [~~F.~~] H. If more than one national laboratory
14 provides technology readiness assistance to a business, the
15 national laboratories shall not claim a technology readiness
16 gross receipts tax credit until coordination is developed
17 between the national laboratories providing the assistance that
18 generates a joint operational plan to ensure that:

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

21 (2) the combined claims for a technology
22 readiness gross receipts tax credit will not exceed the
23 limitations provided in Subsection [~~D.~~] C. of this section.

24 [~~J.~~] I. A national laboratory that claims a
25 technology readiness gross receipts tax credit shall submit an

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

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

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

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

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

21 ~~[K.]~~ J. At any time after receipt of an annual
22 report required pursuant to this section, the department or the
23 economic development department may provide written
24 instructions to a national laboratory identifying future
25 improvements in the national laboratory's technology readiness

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1 assistance program for which it receives a technology readiness
2 gross receipts tax credit.

3 ~~[L.]~~ K. As used in this section:

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

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

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

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

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

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

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

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

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

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

15 SECTION 2. REPEAL.--

16 A. Section 7-1-6.65 NMSA 1978 (being Laws 2020,
17 Chapter 22, Section 2) is repealed.

18 B. Laws 2020, Chapter 22, Section 3 is repealed.

19 SECTION 3. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2022.