

HOUSE BILL 27

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

## INTRODUCED BY

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## 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.

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 indirectly owns or controls, is owned or controlled by or

•232299•2

1 under common ownership or control with another person through  
2 ownership of voting securities or other ownership interests  
3 representing a majority of the total voting power of the  
4 entity;

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

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

25                  D. "department" means the taxation and revenue

.232299.2

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1 department, the secretary of taxation and revenue or any  
2 employee of the department exercising authority lawfully  
3 delegated to that employee by the secretary;

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

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

16 G. "qualified expenditure" means an expenditure or  
17 an allocated portion of an expenditure by a taxpayer in  
18 connection with qualified research at a qualified facility,  
19 including expenditures for depletable land and rent paid or  
20 incurred for land, improvements, the allowable amount paid or  
21 incurred to operate or maintain a facility, buildings,  
22 equipment, computer software, computer software upgrades,  
23 consultants and contractors performing work in New Mexico,  
24 payroll, technical books and manuals and test materials, but  
25 not including any expenditure ~~[on property that is owned by a~~

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1       municipality or county in connection with an industrial revenue  
2       bond project] for property for which the taxpayer has received  
3       any credit pursuant to the Investment Credit Act, property that  
4       was owned by the taxpayer or an affiliate before July 3, 2000  
5       or research and development expenditures reimbursed by a person  
6       who is not an affiliate of the taxpayer. If a "qualified  
7       expenditure" is an allocation of an expenditure, the cost  
8       accounting methodology used for the allocation of the  
9       expenditure shall be the same cost accounting methodology used  
10      by the taxpayer in its other business activities;

11           H. "qualified facility" means a facility in New  
12       Mexico at which qualified research is conducted. [other than]  
13       "Qualified facility" does not mean a facility operated by a  
14       taxpayer for the United States or any agency, department or  
15       instrumentality thereof, a facility in New Mexico designated as  
16       a national laboratory by an act of congress or a research  
17       facility in New Mexico that is owned by the state;

18           I. "qualified research" means research:

19               (1) that is undertaken for the purpose of  
20       discovering information:  
21                       (a) that is technological in nature; and  
22                       (b) the application of which is intended  
23       to be useful in the development of a new or improved business  
24       component of the taxpayer; and  
25               (2) substantially all of the activities of

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1       which constitute elements of a process of experimentation  
2       related to a new or improved function, performance, reliability  
3       or quality, but not related to style, taste or cosmetic or  
4       seasonal design factors;

5               J. "qualified research and development small  
6       business" means a taxpayer that:

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

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

14                       (3) did not have more than fifty percent of  
15      its voting securities or other equity interest with the right  
16      to designate or elect the board of directors or other governing  
17      body of the business owned directly or indirectly by another  
18      business;

19               K. "rural area" means any area of the state other  
20      than the state fairgrounds, an incorporated municipality with a  
21      population of thirty thousand or more according to the most  
22      recent federal decennial census and any area within three miles  
23      of the external boundaries of an incorporated municipality with  
24      a population of thirty thousand or more according to the most  
25      recent federal decennial census;

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1                   L. "taxpayer" means any of the following persons,  
2 other than a federal, state or other governmental unit or  
3 subdivision or an agency, department, institution or  
4 instrumentality thereof:

5                   (1) a person liable for payment of any tax;  
6                   (2) a person responsible for withholding and  
7 payment or collection and payment of any tax;

8                   (3) a person to whom an assessment has been  
9 made if the assessment remains unabated or the assessed amount  
10 has not been paid; or

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

16                  (a) a small business corporation that  
17 has elected to be treated as an S corporation for federal  
18 income tax purposes; or

19                  (b) an entity treated as a partnership  
20 or disregarded entity for federal income tax purposes; and

21                  M. "wages" means remuneration for services  
22 performed by an employee in New Mexico for an employer."

23                  **SECTION 2.** Section 7-9F-9.1 NMSA 1978 (being Laws 2015  
24 (1st S.S.), Chapter 2, Section 17) is amended to read:

25                  "7-9F-9.1. CLAIMING THE ADDITIONAL CREDIT.--

.232299.2

1                   A. A taxpayer may apply for approval of an  
2 additional credit pursuant to the Technology Jobs and Research  
3 and Development Tax Credit Act within one year following the  
4 end of the taxable year in which the qualified expenditure was  
5 made.

6                   B. A taxpayer that has applied for and been granted  
7 approval for an additional credit by the department pursuant to  
8 the Technology Jobs and Research and Development Tax Credit Act  
9 may claim the amount of the approved additional credit against  
10 the taxpayer's income tax or corporate income tax liability.  
11 Except as provided in Subsection C of this section, no taxpayer  
12 may claim an amount of approved additional credit for a taxable  
13 year in which the additional credit is being claimed that  
14 exceeds the amount of the taxpayer's income tax or corporate  
15 income tax due for that taxable year.

16                   C. If a taxpayer is a qualified research and  
17 development small business and the amount of approved  
18 additional credit for the taxable year in which the additional  
19 credit is being claimed exceeds the taxpayer's income tax  
20 liability or corporate income tax liability, the excess shall  
21 be refunded to the taxpayer pursuant to Paragraphs (1) through  
22 (3) of this subsection. If the taxpayer's total qualified  
23 expenditures for the taxable year for which the claim is made  
24 is:

25                   (1) less than three million dollars

.232299.2

(\$3,000,000), the excess additional credit shall be refunded to the taxpayer;

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

(3) greater than or equal to four million dollars (\$4,000,000) and less than or equal to five million dollars (\$5,000,000), one-third of the excess additional credit shall be refunded to the taxpayer.

D. 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] ten years from the date of the original claim.

E. 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 3.** A new section of the Technology Jobs and Research and Development Tax Credit Act, Section 7-9F-9.2 NMSA 1978, is enacted to read:

"7-9F-9.2. [NEW MATERIAL] TRANSFERABILITY OF CREDITS.--The tax credits provided pursuant to the Technology Jobs and Research and Development Tax Credit Act may be sold.

232299 2

1       exchanged or otherwise transferred to another taxpayer for the  
2       full value of the credit. The parties to such a transaction  
3       shall notify the department of the sale, exchange or transfer  
4       within ten days of the sale, exchange or transfer."

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

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