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SENATE BILL 3

44TH LEGISLATURE - STATE OF NEW MEXICO - 2ND SPECIAL SESSION, 2000

INTRODUCED BY

Roman M. Maes III

AN ACT

RELATING TO TAXATION; ENACTING THE TECHNOLOGY STARTUP TAX
CREDIT ACT.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Technology Startup Tax Credit Act".

Section 2. PURPOSE OF ACT.--It is the purpose of the
Technology Startup Tax Credit Act to provide a favorable tax
climate for startup technology businesses in New Mexico,
thereby promoting increased employment and higher wages in
New Mexico.

Section 3. DEFINITIONS.--As used in the Technology
Startup Tax Credit Act:

A. "business" means a corporation, general
partnership, limited partnership, limited liability company
or other similar entity;

B. "department" means the taxation and revenue

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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 C. "qualified business" means a business that has
5 made qualified expenditures for the relevant period of at
6 least twenty percent of its total revenues for that period;

7 D. "qualified expenditure" means an expenditure by
8 a taxpayer in connection with qualified research, but not
9 including any expenditure on property that is owned by a
10 municipality or county in connection with an industrial
11 revenue bond project or property for which the taxpayer has
12 received any credit pursuant to the Capital Equipment Tax
13 Credit Act or the Investment Credit Act;

14 E. "qualified research" means research:

15 (1) that is undertaken for the purpose of
16 discovering information:

17 (a) that is technological in nature;
18 and

19 (b) the application of which is
20 intended to be useful in the development of a new or improved
21 business component of the taxpayer; and

22 (2) substantially all of the activities that
23 constitute elements of a process of experimentation related
24 to new or improved function, performance, reliability or
25 quality, but not related to style, taste, cosmetic or
seasonal design factors; and

F. "taxpayer" means a person liable for payment of

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1 any tax, a person responsible for withholding and payment or
2 collection and payment of any tax or a person to whom an
3 assessment has been made if the assessment remains unabated
4 or the amount thereof has not been paid.

5 Section 4. ADMINISTRATION OF THE ACT.--The department
6 shall administer the Technology Startup Tax Credit Act
7 pursuant to the Tax Administration Act.

8 Section 5. CREDIT--AMOUNT--CLAIMANT.--The credit
9 provided by the Technology Startup Tax Credit Act is an
10 amount equal to any gross receipts taxes, compensating taxes
11 or withholding taxes due to the state of New Mexico paid or
12 payable by a taxpayer with respect to a qualified business.

13 Section 6. ELIGIBILITY REQUIREMENTS.--A taxpayer may
14 claim the credit pursuant to the Technology Startup Tax
15 Credit Act for a period ending fifty-nine calendar months
16 after the first calendar month for which a claim for the
17 credit is made but may not claim the credit for any calendar
18 month:

19 A. that is more than fifty-nine consecutive
20 calendar months after the first month for which a claim for
21 the credit is made;

22 B. after which the qualified business employs more
23 than fifty employees on a full-time-equivalent basis;

24 C. in a fiscal year of the qualified business
25 after the first fiscal year in which that business has total
revenues in excess of ten million dollars (\$10,000,000);

D. after the calendar month in which more than

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1 fifty percent of the qualified business's voting securities
2 or other equity interests having the right to designate or
3 elect the board of directors or other governing body of that
4 business are owned directly or indirectly by another
5 business; or

6 E. if the business was not a qualified business in
7 the twelve-calendar-month period ending with that calendar
8 month.

9 Section 7. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

10 A. A taxpayer shall apply for approval of a credit
11 within one year after the end of the calendar month for which
12 the credit is claimed.

13 B. A taxpayer having applied for and been granted
14 approval for a credit pursuant to the Technology Startup Tax
15 Credit Act may claim the amount of the credit first against
16 the taxpayer's withholding tax and thereafter against the
17 taxpayer's gross receipts tax and compensating tax due to the
18 state of New Mexico; provided that no taxpayer may claim an
19 amount of credit for any reporting period that exceeds the
20 sum of the taxpayer's gross receipts tax, compensating tax
21 and withholding tax for that period.

22 C. A credit not claimed against the taxpayer's
23 gross receipts tax, compensating tax or withholding tax due
24 for a reporting period may be claimed in subsequent reporting
25 periods.

Section 8. CREDIT CLAIM FORMS.--The department shall
provide credit claim forms. A credit claim form shall

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1 accompany any return in which the taxpayer applies for an
2 approved credit, and the claim shall specify the amount of
3 credit intended to apply to each return.

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