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SENATE BILL 235

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John Arthur Smith

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,

underscored material = new
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1 sole proprietorship or other similar entity;

2 B. "department" means the taxation and revenue
3 department, the secretary of taxation and revenue or any
4 employee of the department exercising authority lawfully
5 delegated to that employee by the secretary;

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

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

17 E. "qualified research" means research:

18 (1) that is undertaken for the purpose of
19 discovering information:

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

24 (2) in which substantially all activities
25 constitute elements of a process of experimentation related to

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1 new or improved function, performance, reliability or quality,
2 but not related to style, taste, cosmetic or seasonal design
3 factors; and

4 F. "taxpayer" means a person liable for payment of
5 any tax, a person responsible for withholding and payment or
6 collection and payment of any tax or a person to whom an
7 assessment has been made if the assessment remains unabated or
8 the amount thereof has not been paid.

9 Section 4. ADMINISTRATION OF THE ACT. --The department
10 shall administer the Technology Startup Tax Credit Act pursuant
11 to the Tax Administration Act.

12 Section 5. CREDIT--AMOUNT--CLAIMANT. --The credit provided
13 by the Technology Startup Tax Credit Act is an amount equal to
14 any gross receipts taxes, compensating taxes or withholding
15 taxes due to the state paid or payable by a taxpayer with
16 respect to a qualified business.

17 Section 6. ELIGIBILITY REQUIREMENTS. --A taxpayer may
18 claim a credit pursuant to the Technology Startup Tax Credit
19 Act for a period ending fifty-nine consecutive calendar months
20 after the first calendar month for which a claim for the credit
21 is made, but may not claim the credit for a calendar month:

22 A. before July 2003;

23 B. that is more than fifty-nine consecutive
24 calendar months after the first month for which a claim for the
25 credit is made by the taxpayer or by a person to whom the

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1 taxpayer is a successor, pursuant to Section 7-1-61 NMSA 1978;

2 C. after which the qualified business employs more
3 than fifty employees on a full-time-equivalent basis;

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

7 E. after the calendar month in which more than
8 fifty percent of the qualified business' voting securities or
9 other equity interests having the right to designate or elect
10 the board of directors or other governing body of that business
11 are owned directly or indirectly by another business; or

12 F. if the business was not a qualified business in
13 the twelve-calendar-month period ending with that calendar
14 month.

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

16 A. A taxpayer shall apply for approval of a credit
17 pursuant to the Technology Startup Tax Credit Act within one
18 year after the end of the calendar month for which the credit
19 is claimed.

20 B. A taxpayer who has applied for and been granted
21 approval for a credit pursuant to the Technology Startup Tax
22 Credit Act may claim the amount of the credit against the
23 taxpayer's gross receipts tax, compensating tax or withholding
24 tax due to the state; provided that no taxpayer may claim an
25 amount of credit for a reporting period that exceeds the sum of

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1 the taxpayer's gross receipts tax, compensating tax and
2 withholding tax for that period.

3 C. A credit pursuant to the Technology Startup Tax
4 Credit Act not claimed against the taxpayer's gross receipts
5 tax, compensating tax or withholding tax due for a reporting
6 period may be claimed in subsequent reporting periods.

7 Section 8. CREDIT CLAIM FORMS. --The department shall
8 provide credit claim forms for the Technology Startup Tax
9 Credit Act credit. A credit claim form shall accompany any
10 return in which the taxpayer applies for an approved credit,
11 and the claim shall specify the amount of credit intended to
12 apply to each return.

13 Section 9. EFFECTIVE DATE. --The effective date of the
14 provisions of this act is July 1, 2003.