

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 150

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4 **47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

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9  
10 AN ACT

11 RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX CREDIT FOR  
12 INVESTMENT IN CERTAIN QUALIFIED BUSINESSES.

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

15 Section 1. A new section of the Income Tax Act is  
16 enacted to read:

17 "[NEW MATERIAL] ANGEL INVESTMENT CREDIT.--

18 A. To encourage investment in qualified businesses,  
19 any taxpayer who files an individual New Mexico income tax  
20 return, who is not a dependent of another taxpayer and who  
21 makes a qualified investment may claim a credit in an amount  
22 not to exceed twenty-five percent of not more than one hundred  
23 thousand dollars (\$100,000) of the qualified investment. The  
24 tax credit shall be known as the "angel investment credit".

25 B. A taxpayer may claim the angel investment credit

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underscored material = new  
[bracketed material] = delete

1 for not more than three qualified investments for each taxable  
2 year in which the taxpayer makes a qualified investment;  
3 provided that each investment is in a different qualified  
4 business. A taxpayer may claim the angel investment credit for  
5 a qualified investment made in the same qualified business or  
6 successor of that business for not more than three years.

7 C. A taxpayer may claim the angel investment credit  
8 no later than one year following the end of the calendar year  
9 in which the qualified investment was made provided that a  
10 claim for the credit may not be made or allowed with respect to  
11 any investment made after December 31, 2009. A claim for the  
12 angel investment credit shall not exceed twenty-five thousand  
13 dollars (\$25,000) for each qualified investment made by the  
14 taxpayer.

15 D. A husband and wife who file separate returns for  
16 a taxable year in which they could have filed a joint return  
17 may each claim one-half of the credit that would have been  
18 allowed on a joint return.

19 E. A taxpayer who otherwise qualifies for and  
20 claims the angel investment credit on a qualified investment  
21 made by a partnership of which the taxpayer is a member may  
22 claim a credit only in proportion to the taxpayer's interest in  
23 the partnership. The total credit claimed by all members of  
24 the partnership shall not exceed twenty-five thousand dollars  
25 (\$25,000) for each qualified investment made by the

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1 partnership.

2 F. The angel investment credit may only be deducted  
3 from the taxpayer's income tax liability. Any portion of the  
4 tax credit provided by this section that remains unused at the  
5 end of the taxpayer's taxable year may be carried forward for  
6 three consecutive years; provided that the total tax credits  
7 claimed under this section shall not exceed twenty-five  
8 thousand dollars (\$25,000) for each qualified investment made  
9 by the taxpayer.

10 G. As used in this section:

11 (1) "business" means a corporation, general  
12 partnership, limited partnership, limited liability company,  
13 sole proprietorship or other similar entity but excludes an  
14 entity that is a government or a nonprofit organization  
15 designated as such by the federal government or any state;

16 (2) "equity" means common or preferred stock  
17 of a corporation, a partnership interest in a limited  
18 partnership or a membership interest in a limited liability  
19 company; provided that the stock or interest is not subject to  
20 an option for conversion to debt;

21 (3) "high-technology research" means research:

22 (a) that is undertaken for the purpose  
23 of discovering information that is technological in nature and  
24 the application of which is intended to be useful in the  
25 development of a new or improved business component of the

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1 taxpayer; and

2 (b) substantially all of the activities  
3 of which constitute elements of a process or experimentation  
4 related to a new or improved function, performance, reliability  
5 or quality, but not related to style, taste or cosmetic or  
6 seasonal design factors;

7 (4) "manufacturing" means combining or  
8 processing components or materials to increase their value for  
9 sale in the ordinary course of business, but not including:

- 10 (a) construction;  
11 (b) farming;  
12 (c) power generation;  
13 (d) processing natural resources,  
14 including hydrocarbons; or

15 (e) preparing meals for immediate  
16 consumption, on or off premises;

17 (5) "qualified business" means a business  
18 that:

19 (a) maintains its principal place of  
20 business in New Mexico;

21 (b) engages in high-technology research  
22 or manufacturing activities in New Mexico;

23 (c) has gross revenues of not more than  
24 five million dollars (\$5,000,000) during the previous fiscal  
25 year;

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1 (d) is not a business entity that  
2 directly or indirectly through one or more intermediaries  
3 controls, is controlled by or is under common control with  
4 another business entity; and

5 (e) is not primarily engaged in or is not  
6 primarily organized as any of the following types of  
7 businesses: credit or finance services, including banks,  
8 savings and loan associations, credit unions, small loan  
9 companies or title loan companies; financial brokering or  
10 investment; professional services, including accounting, legal  
11 services, engineering and any other service the practice of  
12 which requires a license; insurance; real estate; construction  
13 or construction contracting; consulting or brokering; mining;  
14 wholesale or retail trade; transportation; providing utility  
15 service, including water, sewerage, electricity, natural gas,  
16 propane or butane; publishing, including publishing newspapers  
17 or other periodicals; broadcasting; or providing internet  
18 operating services; and

19 (6) "qualified investment" means a cash  
20 investment in a qualified business for equity, but does not  
21 include an investment by a taxpayer if the taxpayer, a member  
22 of the taxpayer's immediate family or an entity affiliated with  
23 the taxpayer receives compensation from the qualified business  
24 in exchange for services provided to the qualified business  
25 within one year of investment in the qualified business."

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