

AN ACT

RELATING TO TAXATION; PROVIDING FOR A NEW ELIGIBILITY PERIOD FOR THE RESEARCH AND DEVELOPMENT SMALL BUSINESS TAX CREDIT FROM 2011 UNTIL 2015 AND LIMITING THE CREDIT.

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

**SECTION 1.** Section 7-9H-1 NMSA 1978 (being Laws 2005, Chapter 104, Section 11) is amended to read:

"7-9H-1. SHORT TITLE.--Chapter 7, Article 9H NMSA 1978 may be cited as the "Research and Development Small Business Tax Credit Act"."

**SECTION 2.** Section 7-9H-3 NMSA 1978 (being Laws 2005, Chapter 104, Section 13) is amended to read:

"7-9H-3. RESEARCH AND DEVELOPMENT SMALL BUSINESS TAX CREDIT--AMOUNT--ELIGIBILITY.--

A. Until June 30, 2015, a taxpayer that is a qualified research and development small business is eligible for a credit in a reporting period in an amount equal to the sum of all gross receipts taxes or fifty percent of withholding taxes paid on behalf of employees and owners with no more than five percent ownership that are due to the state or payable by the taxpayer with respect to that business for that reporting period. The credit provided in this section may be referred to as the "research and development small business tax credit".

B. A taxpayer is not eligible for the credit with respect to a reporting period month:

(1) before July 2005 or between July 1, 2009 and June 30, 2011;

(2) that is more than thirty-five consecutive calendar months after the first month for which a claim for the credit is made by the taxpayer or by a person to whom the taxpayer is a successor, pursuant to Section 7-1-61 NMSA 1978. The time period between July 1, 2009 through June 30, 2011 shall be excluded from a determination of consecutive calendar months;

(3) after which the qualified research and development small business employs more than twenty-five employees on a full-time-equivalent basis;

(4) in a fiscal year of the qualified research and development small business after the first fiscal year in which that business has total revenues in excess of five million dollars (\$5,000,000);

(5) after the calendar month in which more than fifty percent of the qualified research and development small business' voting securities or other equity interests having the right to designate or elect the board of directors or other governing body of that business are owned directly or indirectly by another business;

(6) if the business was not a qualified

research and development small business in the twelve-  
calendar-month period ending with that calendar month;

(7) during which the taxpayer is the  
beneficiary of an industrial revenue bond issued by a  
municipality or county; or

(8) during which the taxpayer sold any goods  
of which the taxpayer is not the manufacturer, unless the  
taxpayer has received an appropriate nontaxable transaction  
certificate for such sale or sales."

**SECTION 3. EFFECTIVE DATE.**--The effective date of the  
provisions of this act is July 1, 2011. \_\_\_\_\_