

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 262

44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2000

INTRODUCED BY

Raymond G. Sanchez

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS

COMMITTEE

AN ACT

**RELATING TO TAXATION; ENACTING THE TECHNOLOGY JOBS TAX CREDIT
ACT FOR CERTAIN RESEARCH, DEVELOPMENT AND EXPERIMENTATION
INVESTMENTS.**

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

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

**Section 2. PURPOSE OF ACT.--It is the purpose of the
Technology Jobs Tax Credit Act to provide a favorable tax
climate for technology-based businesses engaging in research,
development and experimentation and to promote increased
employment and higher wages in those fields in New Mexico.**

Section 3. DEFINITIONS.--As used in the Technology Jobs

underscored material = new
[bracketed material] = delete

1 Tax Credit Act:

2 A. "annual payroll expense" means the wages paid
3 or payable by the taxpayer for the one-year period ending on
4 the day the taxpayer applies for an additional credit
5 pursuant to the Technology Jobs Tax Credit Act;

6 B. "base payroll expense" means the wages paid or
7 payable by the taxpayer for the one-year period ending on the
8 day one year prior to the day the taxpayer applies for an
9 additional credit pursuant to the Technology Jobs Tax Credit
10 Act, adjusted for any increase in the consumer price index
11 for the United States for all items as published by the
12 United States department of labor since that day;

13 C. "department" means the taxation and revenue
14 department, the secretary of taxation and revenue or any
15 employee of the department exercising authority lawfully
16 delegated to that employee by the secretary;

17 D. "facility" means a factory, mill, plant,
18 refinery, warehouse, dairy, feedlot, building or complex of
19 buildings located within the state, including the land on
20 which the facility is located and all machinery, equipment
21 and other real and tangible personal property located at or
22 within the facility and used in connection with the operation
23 of the facility;

24 E. "qualified expenditure" means an expenditure by
25

underscored material = new
[bracketed material] = delete

1 a taxpayer in connection with qualified research at a
2 qualified facility, including expenditures for depletable
3 land and rent paid or incurred for land, improvements, the
4 allowable amount paid or incurred to operate or maintain a
5 facility, buildings, equipment, computer software, computer
6 software upgrades, consultants, subcontractors located in New
7 Mexico, payroll, technical books and manuals and test
8 materials, but not including any expenditure on property that
9 is owned by a municipality or county in connection with an
10 industrial revenue bond project or property for which the
11 taxpayer has received any credit pursuant to the Capital
12 Equipment Tax Credit Act or the Investment Credit Act;

13 F. "qualified facility" means a facility in New
14 Mexico at which qualified research is conducted other than a
15 facility operated by a taxpayer for the United States or any
16 agency, department or instrumentality thereof;

17 G. "qualified research" means research:

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

20 (a) that is technological in nature;

21 and

22 (b) the application of which is
23 intended to be useful in the development of a new or improved
24 business component of the taxpayer; and
25

. 131404. 1

underscored material = new
[bracketed material] = delete

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

6 H. "rural area" means any area of the state other
7 than a class A county, a class B county that has a net
8 taxable value for rate-setting purposes for any property tax
9 year of more than three billion dollars (\$3,000,000,000), the
10 municipality of Rio Rancho and the area within three miles of
11 the exterior boundaries of a class A county;

12 I. "taxpayer" means:

- 13 (1) a person liable for payment of any tax;
14 (2) a person responsible for withholding and
15 payment or collection and payment of any tax;
16 (3) a person to whom an assessment has been
17 made if the assessment remains unabated or the assessed
18 amount has not been paid; or
19 (4) for purposes of the additional credit
20 against the taxpayer's income tax pursuant to the Technology
21 Jobs Tax Credit Act and to the extent of their respective
22 interest in that entity, the shareholders, members, partners
23 or other owners of:

24 (a) a small business corporation that
25

underscored material = new
[bracketed material] = delete

1 has elected to be treated as an S corporation for federal
2 income tax purposes; or

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

5 J. "wages" means remuneration in cash or other
6 form for services performed by an employee for an employer.

7 Section 4. ADMINISTRATION OF ACT.--The department shall
8 administer the Technology Jobs Tax Credit Act pursuant to the
9 Tax Administration Act.

10 Section 5. BASIC CREDIT--ADDITIONAL CREDIT--AMOUNTS--
11 CLAIMANT.--

12 A. The basic credit provided for in the Technology
13 Jobs Tax Credit Act is an amount equal to five percent of the
14 amount of qualified expenditures made by a taxpayer
15 conducting qualified research at a qualified facility.

16 B. The additional credit provided for in the
17 Technology Jobs Tax Credit Act is an amount equal to five
18 percent of the amount of qualified expenditures made by a
19 taxpayer conducting qualified research at a qualified
20 facility.

21 Section 6. ELIGIBILITY REQUIREMENTS.--

22 A. A taxpayer conducting qualified research at a
23 qualified facility and making qualified expenditures is
24 eligible to claim the basic credit pursuant to the Technology
25

. 131404. 1

underscored material = new
[bracketed material] = delete

1 Jobs Tax Credit Act.

2 B. A taxpayer conducting qualified research at a
3 qualified facility and making qualified expenditures is
4 eligible to claim the additional credit pursuant to the
5 Technology Jobs Tax Credit Act if:

6 (1) the taxpayer increases the taxpayer's
7 annual payroll expense at the qualified facility by at least
8 fifty thousand dollars (\$50,000) over the base payroll
9 expense of the taxpayer;

10 (2) the increase in Paragraph (1) of this
11 subsection has not previously been used to meet the
12 requirements of this subsection; and

13 (3) there is at least a fifty thousand
14 dollar (\$50,000) increase in the taxpayer's annual payroll
15 expense for every one million dollars (\$1,000,000) in
16 qualified expenditures claimed by the taxpayer in a taxable
17 year in the same claim.

18 Section 7. QUALIFIED EXPENDITURES. --The amount of a
19 taxpayer's qualified expenditure is the purchase price for
20 the relevant property or service; provided that if the
21 equipment has been owned by the taxpayer for more than one
22 year before its introduction into New Mexico and installation
23 into a qualified facility, the qualified expenditure is the
24 reasonable market value of the equipment at the time the
25

. 131404. 1

underscored material = new
[bracketed material] = delete

1 credit is claimed.

2 Section 8. RURAL AREAS. --The amount of the basic and
3 additional credit for which a taxpayer is otherwise eligible
4 shall be doubled if the qualified expenditures were incurred
5 with respect to a qualified facility in a rural area.

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

7 A. A taxpayer may apply for approval of a credit
8 within one year following the end of the calendar year in
9 which the qualified expenditure was made.

10 B. A taxpayer having applied for and been granted
11 approval for a basic credit by the department pursuant to the
12 Technology Jobs Tax Credit Act may claim the amount of the
13 approved basic credit against the taxpayer's compensating
14 tax, gross receipts tax or withholding tax due to the state
15 of New Mexico, provided that no taxpayer may claim an amount
16 of approved basic credit for any reporting period that
17 exceeds the sum of the taxpayer's gross receipts tax,
18 compensating tax and withholding tax due for that reporting
19 period.

20 C. A taxpayer who has applied for and been granted
21 approval for an additional credit by the department pursuant
22 to the Technology Jobs Tax Credit Act may claim the amount of
23 the approved additional credit against the taxpayer's income
24 tax or corporate income tax due the state of New Mexico;
25

. 131404. 1

underscored material = new
[bracketed material] = delete

1 provided that:

2 (1) no taxpayer may claim an amount of
3 approved additional credit for any reporting period that
4 exceeds the amount of the taxpayer's income tax or corporate
5 income tax due for that reporting period; and

6 (2) a husband and wife who file separate
7 returns for a taxable year in which they could have filed a
8 joint return may each claim only one-half of the additional
9 credit that would have been allowed them on a joint return.

10 D. Any amount of approved basic credit not claimed
11 against the taxpayer's gross receipts tax, compensating tax
12 or withholding tax due and any amount of approved additional
13 credit not claimed against the taxpayer's income tax or
14 corporate income tax due for a reporting period may be
15 claimed in subsequent reporting periods; provided that a
16 husband and wife who file separate returns for a taxable year
17 in which they could have filed a joint return may each claim
18 only one-half of the additional credit that would have been
19 allowed them on a joint return.

20 Section 10. CREDIT CLAIM FORMS. --The department shall
21 provide credit claim forms. A credit claim shall accompany
22 any return in which the taxpayer wishes to apply for an
23 approved basic or additional credit, and the claim shall
24 specify the amount and type of credit intended to apply to
25

. 131404. 1

underscored material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

each return.

Section 11. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2000.