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SENATE BILL 28

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

INTRODUCED BY

Roman M. Maes III

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  
Tax Credit Act:

A. "annual payroll expense" means the salaries and

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1 wages and payroll taxes paid or payable by the taxpayer to  
2 employees for the one-year period ending on the day the  
3 taxpayer applies for an additional credit pursuant to the  
4 Technology Jobs Tax Credit Act;

5 B. "base payroll expense" means the salaries and  
6 wages and payroll taxes paid or payable by the taxpayer to  
7 employees for the one-year period ending on the day one year  
8 prior to the day the taxpayer applies for an additional  
9 credit pursuant to the Technology Jobs Tax Credit Act,  
10 reduced proportionately for any increase in the consumer  
11 price index for the United States for all items as published  
12 by the 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 a taxpayer in connection with qualified research at a  
qualified facility, including expenditures for land,  
improvements, buildings, equipment, computer software,

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1 computer software upgrades, consultants, payroll, technical  
2 books and manuals and test materials, but not including any  
3 expenditure on property that is owned by a municipality or  
4 county in connection with an industrial revenue bond project  
5 or property for which the taxpayer has received any credit  
6 pursuant to the Capital Equipment Tax Credit Act or the  
7 Investment Credit Act;

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

12 G. "qualified research" means research:

13 (1) that is undertaken for the purpose of  
14 discovering information:

15 (a) that is technological in nature;

16 and

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

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

25 H. "rural area" means any area of the state other  
than a class A county, a class B county that has a net  
taxable value for rate-setting purposes for any property tax

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1 year of more than three billion dollars (\$3,000,000,000), the  
2 municipality of Rio Rancho and the area within three miles of  
3 the exterior boundaries of a class A county; and

4 I. "taxpayer" means:

5 (1) a person liable for payment of any tax;

6 (2) a person responsible for withholding and  
7 payment or collection and payment of any tax;

8 (3) a person to whom an assessment has been  
9 made if the assessment remains unabated or the assessed  
10 amount has not been paid; or

11 (4) for purposes of the additional credit  
12 against the taxpayer's income tax pursuant to the Technology  
13 Jobs Tax Credit Act and to the extent of their respective  
14 interest in that entity, the shareholders, members, partners  
15 or other owners of:

16 (a) a small business corporation that  
17 has elected to be treated as an S corporation for federal  
18 income tax purposes; or

19 (b) an entity treated as a partnership  
20 or disregarded entity for federal income tax purposes.

21 Section 4. ADMINISTRATION OF ACT.--The department shall  
22 administer the Technology Jobs Tax Credit Act pursuant to the  
23 Tax Administration Act.

24 Section 5. BASIC CREDIT--ADDITIONAL CREDIT--AMOUNTS--  
25 CLAIMANT.--

A. The basic credit provided for in the Technology  
Jobs Tax Credit Act is an amount equal to five percent of the

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1 amount of qualified expenditures made by a taxpayer  
2 conducting qualified research at a qualified facility.

3 B. The additional credit provided for in the  
4 Technology Jobs Tax Credit Act is an amount equal to five  
5 percent of the amount of qualified expenditures made by a  
6 taxpayer conducting qualified research at a qualified  
7 facility.

8 Section 6. ELIGIBILITY REQUIREMENTS.--

9 A. A taxpayer conducting qualified research at a  
10 qualified facility and making qualified expenditures is  
11 eligible to claim the basic credit pursuant to the Technology  
12 Jobs Tax Credit Act.

13 B. A taxpayer conducting qualified research at a  
14 qualified facility and making qualified expenditures is  
15 eligible to claim the additional credit pursuant to the  
16 Technology Jobs Tax Credit Act if:

17 (1) the taxpayer increases the taxpayer's  
18 annual payroll expense at the qualified facility by at least  
19 fifty thousand dollars (\$50,000) over the base payroll  
20 expense of the taxpayer;

21 (2) the increase in Paragraph (1) of this  
22 subsection has not previously been used to meet the  
23 requirements of this subsection; and

24 (3) there is at least a fifty thousand  
25 dollar (\$50,000) increase in the taxpayer's annual payroll  
expense for every one million dollars (\$1,000,000) in  
qualified expenditures claimed by the taxpayer in a taxable

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1 year in the same claim.

2 Section 7. QUALIFIED EXPENDITURES.--The amount of a  
3 taxpayer's qualified expenditure is the purchase price for  
4 the relevant property or service; provided that if the  
5 equipment has been owned by the taxpayer for more than one  
6 year before its introduction into New Mexico and installation  
7 into a qualified facility, the qualified expenditure is the  
8 reasonable market value of the equipment at the time of its  
9 introduction into New Mexico.

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

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

15 A. A taxpayer may apply for approval of a credit  
16 within one year following the end of the calendar year in  
17 which the qualified expenditure was made.

18 B. A taxpayer having applied for and been granted  
19 approval for a basic credit by the department pursuant to the  
20 Technology Jobs Tax Credit Act may claim the amount of the  
21 approved basic credit against the taxpayer's compensating  
22 tax, gross receipts tax or withholding tax due to the state  
23 of New Mexico, provided that no taxpayer may claim an amount  
24 of approved basic credit for any reporting period that  
25 exceeds the sum of the taxpayer's gross receipts tax,  
compensating tax and withholding tax due for that reporting  
period.

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1           C. A taxpayer who has applied for and been granted  
2 approval for an additional credit by the department pursuant  
3 to the Technology Jobs Tax Credit Act may claim the amount of  
4 the approved additional credit against the taxpayer's income  
5 tax or corporate income tax due the state of New Mexico;  
6 provided that:

7                   (1) no taxpayer may claim an amount of  
8 approved additional credit for any reporting period that  
9 exceeds the amount of the taxpayer's income tax or corporate  
10 income tax due for that reporting period; and

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

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

25           Section 10. CREDIT CLAIM FORMS.--The department shall  
provide credit claim forms. A credit claim shall accompany  
any return in which the taxpayer wishes to apply for an

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1 approved basic or additional credit, and the claim shall  
2 specify the amount and type of credit intended to apply to  
3 each return.

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

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