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**SENATE BILL 288**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Roman M. Maes III**

**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 or**

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1 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  
8 least 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 not  
11 including any expenditure on property that is owned by a  
12 municipality or county in connection with an industrial  
13 revenue bond project or property for which the taxpayer has  
14 received any credit pursuant to the Capital Equipment Tax  
15 Credit Act, the Investment Credit Act or the Technology Jobs  
16 Tax Credit 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;  
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 (2) in which substantially all of the

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1 activities constitute elements of a process of experimentation  
2 related to new or improved function, performance, reliability  
3 or quality, but not related to style, taste, cosmetic or  
4 seasonal design factors; and

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

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

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

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

23 A. that is more than fifty-nine consecutive  
24 calendar months after the first month for which a claim for  
25 the credit is made;

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

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

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

12           E. 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 within one year after the end of the calendar month for which  
18 the credit is claimed.

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

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1 withholding tax for that period.

2 C. A credit not claimed against the taxpayer's  
3 gross receipts tax, compensating tax or withholding tax due  
4 for a reporting period may be claimed in subsequent reporting  
5 periods.

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

11 Section 9. EFFECTIVE DATE. --The effective date of the  
12 provisions of this act is July 1, 2001.

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