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HOUSE BILL 2

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2015

INTRODUCED BY

Tim D. Lewis

AN ACT

RELATING TO TAXATION; AUTHORIZING THE TAXATION AND REVENUE
DEPARTMENT TO REVEAL TAX RETURN INFORMATION TO AN AUTHORIZED
REPRESENTATIVE OF A LOCAL GOVERNMENT OF ANOTHER STATE WHO IS
CHARGED WITH THE RESPONSIBILITY FOR ADMINISTRATION OF THAT
STATE'S TAX LAWS; AMENDING PROVISIONS OF THE ANGEL INVESTMENT
CREDIT; PROVIDING AN INCOME TAX DEDUCTION FOR CERTAIN
UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES; REVISING
THE DUE DATE FOR CORPORATE INCOME AND FRANCHISE TAX FILING AND
PAYMENT FOR ELECTRONIC SUBMISSIONS; REVISING THE DUE DATE FOR
PASS-THROUGH ENTITY INFORMATION-RETURN FILING FOR ELECTRONIC
SUBMISSIONS; PROVIDING FOR THE USE OF A SINGLE SALES FACTOR BY
A HEADQUARTERS OPERATION IN APPORTIONING CORPORATE INCOME TO
THE STATE; EXTENDING ELIGIBILITY FOR THE GROSS RECEIPTS TAX
DEDUCTION FOR TRADE-SUPPORT COMPANIES IN A BORDER ZONE;
PROVIDING A DEDUCTION FROM THE GROSS RECEIPTS TAX FOR CERTAIN

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1 RECEIPTS DERIVED FROM THE SALE OF GOODS AND SERVICES TO THE
2 UNITED STATES DEPARTMENT OF DEFENSE RELATED TO DIRECTED ENERGY
3 OR SATELLITES; AMENDING THE TECHNOLOGY JOBS TAX CREDIT ACT TO
4 CREATE THE TECHNOLOGY JOBS AND RESEARCH AND DEVELOPMENT TAX
5 CREDIT ACT; PREVENTING DOUBLE TAXATION OF GASOLINE OR SPECIAL
6 FUEL WHEN A RACK OPERATOR MUST TAKE PRODUCT FROM NON-PIPELINE
7 OR REFINERY SOURCES; PROVIDING A REFUND OF THE PETROLEUM
8 PRODUCTS LOADING FEE ON PRODUCTS PREVIOUSLY LOADED FROM A
9 SOURCE OTHER THAN A REFINER OR PIPELINE TERMINAL; AMENDING,
10 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 SECTION 1. Section 7-1-8.7 NMSA 1978 (being Laws 2009,
14 Chapter 243, Section 9) is amended to read:

15 "7-1-8.7. INFORMATION THAT MAY BE REVEALED TO OTHER
16 STATES OR MULTISTATE ADMINISTRATIVE BODIES.--An employee of the
17 department may reveal return information to:

18 A. an authorized representative of another state or
19 an authorized representative of a local government of another
20 state who is charged under the laws of that state with the
21 responsibility for administration of that state's tax laws;
22 provided that the receiving state or local government has
23 entered into a written agreement with the department to use the
24 return information for tax purposes only and that the receiving
25 state has enacted a confidentiality statute and penalty similar

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1 to Sections 7-1-8 and 7-1-76 NMSA 1978 to which the
2 representative is subject;

3 B. the multistate tax commission, the federation of
4 tax administrators or their authorized representatives;
5 provided that the return information is used for tax purposes
6 only and is revealed by the multistate tax commission or the
7 federation of tax administrators only to states that have met
8 the requirements of Subsection A of this section; and

9 C. another jurisdiction pursuant to an
10 international fuel tax agreement; provided that the return
11 information is used for tax purposes only."

12 SECTION 2. Section 7-2-18.17 NMSA 1978 (being Laws 2007,
13 Chapter 172, Section 1, as amended) is amended to read:

14 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

15 A. A taxpayer who files a New Mexico income tax
16 return, is not a dependent of another taxpayer, is an
17 accredited investor and makes a qualified investment may claim
18 a credit in an amount not to exceed twenty-five percent of [~~not~~
19 ~~more than one hundred thousand dollars (\$100,000) of~~] the
20 qualified investment; provided that a credit for each qualified
21 investment shall not exceed sixty-two thousand five hundred
22 dollars (\$62,500). The tax credit provided in this section
23 shall be known as the "angel investment credit".

24 B. A taxpayer may claim the angel investment credit
25 for not more than [~~two~~] one qualified [~~investments in a taxable~~

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1 ~~year; provided that each investment is in a different qualified~~
2 ~~business]~~ investment per investment round. A taxpayer may
3 claim the angel investment credit for qualified investments
4 ~~[made in the same qualified business or successor of that~~
5 ~~business for not more than three taxable years. The angel~~
6 ~~investment credit shall not exceed twenty-five thousand dollars~~
7 ~~(\$25,000) for each qualified investment by the taxpayer]~~ in no
8 more than five qualified businesses per taxable year.

9 C. A taxpayer may claim the angel investment credit
10 no later than one year following the end of the calendar year
11 in which the qualified investment was made; provided that a
12 claim for the credit may not be made or allowed with respect to
13 any investment made after December 31, ~~[2016]~~ 2025.

14 D. A taxpayer shall apply for certification of
15 eligibility for the angel investment credit from the economic
16 development department. Completed applications shall be
17 considered in the order received. If the economic development
18 department determines that the taxpayer is an accredited
19 investor and the investment is a qualified investment, it shall
20 issue a certificate of eligibility to the taxpayer, subject to
21 the limitation in Subsection E of this section. The
22 certificate shall be dated and shall include a calculation of
23 the amount of the angel investment credit for which the
24 taxpayer is eligible. The economic development department may
25 issue rules governing the procedure for administering the

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1 provisions of this subsection.

2 E. The economic development department may issue a
3 certificate of eligibility pursuant to Subsection D of this
4 section only if the total amount of angel investment credits
5 represented by certificates of eligibility issued by the
6 economic development department in any calendar year will not
7 exceed [~~seven hundred fifty thousand dollars (\$750,000)~~] two
8 million dollars (\$2,000,000). If the applications for
9 certificates of eligibility for angel investment credits
10 represent an aggregate amount exceeding [~~seven hundred fifty~~
11 ~~thousand dollars (\$750,000)~~] two million dollars (\$2,000,000)
12 for any calendar year, certificates shall be issued in the
13 order that [~~the~~] completed applications were received. The
14 excess applications that would have been certified, but for the
15 limit imposed by this subsection, shall be certified, subject
16 to the same limit, in subsequent calendar years.

17 F. The economic development department shall report
18 annually to the legislative finance committee on the
19 utilization and effectiveness of the angel investment credit.
20 The report shall include, at a minimum: the number of
21 accredited investors to whom certificates of eligibility were
22 issued by the economic development department in the previous
23 year; the names of those investors; the amount of angel
24 investment credit for which each investor was certified
25 eligible; and the number and names of the businesses that the

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1 economic development department has determined are qualified
2 businesses for purposes of an investment by an accredited
3 investor. The report shall also include an evaluation of the
4 success of the angel investment credit as an incubator of new
5 businesses in New Mexico and of the continued viability and
6 operation in New Mexico of businesses in which investments
7 eligible for the angel investment credit have been made.

8 G. To claim the angel investment credit, the
9 taxpayer must provide to the taxation and revenue department a
10 certificate of eligibility issued by the economic development
11 department pursuant to Subsection D of this section and any
12 other information the taxation and revenue department may
13 require to determine the amount of the tax credit due the
14 taxpayer. If the requirements of this section have been
15 complied with, the taxation and revenue department shall
16 approve the claim for the credit.

17 H. A taxpayer who otherwise qualifies for and
18 claims a credit pursuant to this section for a qualified
19 investment made by a partnership or other business association
20 of which the taxpayer is a member may claim a credit only in
21 proportion to the taxpayer's interest in the partnership or
22 business association. [~~The total credit claimed in the~~
23 ~~aggregate by all members of the partnership or business~~
24 ~~association in a taxable year with respect to a qualified~~
25 ~~investment shall not exceed twenty-five thousand dollars~~

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1 (~~\$25,000~~).]

2 I. A husband and wife who file separate returns for
3 a taxable year in which they could have filed a joint return
4 may each claim one-half of the credit that would have been
5 allowed on a joint return.

6 J. The angel investment credit may only be deducted
7 from the taxpayer's income tax liability. Any portion of the
8 tax credit provided by this section that remains unused at the
9 end of the taxpayer's taxable year may be carried forward for
10 [~~three~~] five consecutive years.

11 K. As used in this section:

12 (1) "accredited investor" means a person who
13 is an accredited investor within the meaning of Rule 501 issued
14 by the federal securities and exchange commission pursuant to
15 the federal Securities Act of 1933, as amended;

16 (2) "business" means a corporation, general
17 partnership, limited partnership, limited liability company or
18 other similar entity, but excludes an entity that is a
19 government or a nonprofit organization designated as such by
20 the federal government or any state;

21 (3) "equity" means common or preferred stock
22 of a corporation, a partnership interest in a limited
23 partnership or a membership interest in a limited liability
24 company, including debt subject to an option in favor of the
25 creditor to convert the debt into common or preferred stock, a

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1 partnership interest or a membership interest;

2 [~~(4) "high-technology research" means~~
3 ~~research:~~

4 ~~(a) that is undertaken for the purpose~~
5 ~~of discovering information that is technological in nature and~~
6 ~~the application of which is intended to be useful in the~~
7 ~~development of a new or improved business component of the~~
8 ~~qualified business; and~~

9 ~~(b) substantially all of the activities~~
10 ~~of which constitute elements of a process or experimentation~~
11 ~~related to a new or improved function, performance, reliability~~
12 ~~or quality, but not related to style, taste or cosmetic or~~
13 ~~seasonal design factors;]~~

14 (4) "investment round" means an offer and sale
15 of securities and all other offers and sales of securities that
16 would be integrated with such offer and sale of securities
17 under Regulation D issued by the federal securities and
18 exchange commission pursuant to the federal Securities Act of
19 1933, as amended;

20 (5) "manufacturing" means combining or
21 processing components or materials to increase their value for
22 sale in the ordinary course of business, but does not include:

23 (a) construction;

24 (b) farming;

25 (c) processing natural resources,

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1 including hydrocarbons; or

2 (d) preparing meals for immediate
3 consumption, on- or off-premises;

4 (6) "qualified business" means a business
5 that:

6 (a) maintains its principal place of
7 business and employs a majority of its full-time employees, if
8 any, in New Mexico and a majority of its tangible assets, if
9 any, are located in New Mexico;

10 (b) engages in [~~high-technology~~]
11 qualified research or manufacturing activities in New Mexico;

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

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1 (d) has not issued securities registered
2 pursuant to Section 6 of the federal Securities Act of 1933, as
3 amended; has not issued securities traded on a national
4 securities exchange; is not subject to reporting requirements
5 of the federal Securities Exchange Act of 1934, as amended; and
6 is not registered pursuant to the federal Investment Company
7 Act of 1940, as amended, at the time of the investment;

8 (e) has one hundred or fewer employees
9 calculated on a full-time-equivalent basis [~~at the time of the~~
10 ~~investment~~] in the taxable year in which the investment was
11 made; and

12 (f) has not had gross revenues in excess
13 of five million dollars (\$5,000,000) in any fiscal year ending
14 on or before the date of the investment; [~~and~~]

15 (7) "qualified investment" means a cash
16 investment in a qualified business for equity, but does not
17 include an investment by a taxpayer if the taxpayer, a member
18 of the taxpayer's immediate family or an entity affiliated with
19 the taxpayer receives compensation from the qualified business
20 in exchange for services provided to the qualified business
21 within one year of investment in the qualified business; and

22 (8) "qualified research" means "qualified
23 research" as defined by Section 41 of the Internal Revenue
24 Code."

25 SECTION 3. A new section of the Income Tax Act is enacted

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1 to read:

2 "[NEW MATERIAL] DEDUCTION--UNREIMBURSED OR UNCOMPENSATED
3 MEDICAL CARE EXPENSES.--

4 A. Prior to January 1, 2025, a taxpayer may claim a
5 deduction from net income in an amount determined pursuant to
6 Subsection B of this section for medical care expenses paid
7 during the taxable year for medical care of the taxpayer, the
8 taxpayer's spouse or a dependent if the expenses are not
9 reimbursed or compensated for by insurance or otherwise and
10 have not been included in the taxpayer's itemized deductions,
11 as defined in Section 63 of the Internal Revenue Code, for the
12 taxable year.

13 B. The deduction provided in Subsection A of this
14 section may be claimed in an amount equal to the following
15 percentage of medical care expenses paid during the taxable
16 year based on the taxpayer's filing status and adjusted gross
17 income as follows:

18 (1) for surviving spouses and married
19 individuals filing joint returns:
20 If adjusted gross income is: The following percent of
21 medical care expenses
22 paid may be deducted:
23 Not over \$30,000 25 percent
24 More than \$30,000 but not more than
25 \$70,000 15 percent

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1 Over \$70,000 10 percent;
2 (2) for single individuals and married
3 individuals filing separate returns:
4 If adjusted gross income is: The following percent of
5 medical care expenses
6 paid may be deducted:
7 Not over \$15,000 25 percent
8 More than \$15,000 but not more than
9 \$35,000 15 percent
10 Over \$35,000 10 percent; and

11 (3) for heads of household:
12 If adjusted gross income is: The following percent of
13 medical care expenses
14 paid may be deducted:
15 Not over \$20,000 25 percent
16 More than \$20,000 but not more than
17 \$50,000 15 percent
18 Over \$50,000 10 percent.

19 C. As used in this section:
20 (1) "dependent" means "dependent" as defined
21 in Section 152 of the Internal Revenue Code;
22 (2) "health care facility" means a hospital,
23 outpatient facility, diagnostic and treatment center,
24 rehabilitation center, free-standing hospice or other similar
25 facility at which medical care is provided;

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1 (3) "medical care" means the diagnosis, cure,
2 mitigation, treatment or prevention of disease or for the
3 purpose of affecting any structure or function of the body;

4 (4) "medical care expenses" means amounts paid
5 for:

6 (a) the diagnosis, cure, mitigation,
7 treatment or prevention of disease or for the purpose of
8 affecting any structure or function of the body, excluding
9 cosmetic surgery, if provided by a physician or in a health
10 care facility;

11 (b) prescribed drugs or insulin;

12 (c) qualified long-term care services as
13 defined in Section 7702B(c) of the Internal Revenue Code;

14 (d) insurance covering medical care,
15 including amounts paid as premiums under Part B of Title 18 of
16 the Social Security Act or for a qualified long-term care
17 insurance contract defined in Section 7702B(b) of the Internal
18 Revenue Code, if the insurance or other amount is paid from
19 income included in the taxpayer's adjusted gross income for the
20 taxable year;

21 (e) nursing services, regardless of
22 where the services are rendered, if provided by a practical
23 nurse or a professional nurse licensed to practice in the state
24 pursuant to the Nursing Practice Act;

25 (f) specialized treatment or the use of

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1 special therapeutic devices if the treatment or device is
2 prescribed by a physician and the patient can show that the
3 expense was incurred primarily for the prevention or
4 alleviation of a physical or mental defect or illness; and

5 (g) care in an institution other than a
6 hospital, such as a sanitarium or rest home, if the principal
7 reason for the presence of the person in the institution is to
8 receive the medical care available; provided that if the meals
9 and lodging are furnished as a necessary part of such care, the
10 cost of the meals and lodging are "medical care expenses";

11 (5) "physician" means a medical doctor,
12 osteopathic physician, dentist, podiatrist, chiropractic
13 physician or psychologist licensed or certified to practice in
14 New Mexico; and

15 (6) "prescribed drug" means a drug or
16 biological that requires a prescription of a physician for its
17 use by an individual."

18 SECTION 4. Section 7-2A-9 NMSA 1978 (being Laws 1981,
19 Chapter 37, Section 42, as amended) is amended to read:

20 "7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--

21 A. Every corporation deriving income from any
22 business transaction, property or employment within this state,
23 [~~and~~] that is not exempt from tax under the Corporate Income
24 and Franchise Tax Act [~~which~~] and that is required by the laws
25 of the United States to file a federal income tax return shall

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1 file a complete tax return with the department in form and
2 content as prescribed by the secretary. [~~Corporations shall~~
3 ~~file such returns with the department on or before the~~
4 ~~fifteenth day of the third month following the end of each~~
5 ~~taxable year. The corporate income tax imposed on corporations~~
6 ~~under Subsection A of Section 7-2A-3 NMSA 1978 is due and~~
7 ~~payment is required on or before the fifteenth day of the third~~
8 ~~month following the end of the taxable year.] Except as
9 provided in Subsection C of this section, a corporation that is
10 required by the provisions of the Corporate Income and
11 Franchise Tax Act to file a return or pay a tax shall, on or
12 before the fifteenth day of the third month following the end
13 of each taxable year, file the return and pay the tax levied
14 for that year.~~

15 B. Every domestic or foreign corporation that is
16 not exempt from tax under the Corporate Income and Franchise
17 Tax Act, that is employed or engaged in the transaction of
18 business in, into or from this state or [~~deriving~~] that derives
19 any income from property or employment within this state and
20 every domestic or foreign corporation, regardless of whether it
21 is engaged in active business, [~~or not, but having or~~
22 ~~exercising~~] that has or exercises its corporate franchise in
23 this state and that is not exempt from tax under the Corporate
24 Income and Franchise Tax Act [~~is required to~~] shall file a
25 return in the form and content as prescribed by the secretary

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1 and pay the tax levied pursuant to Subsection B of Section
2 7-2A-3 NMSA 1978 in the amount for each corporation as
3 specified in Section 7-2A-5.1 NMSA 1978. Returns and payment
4 of tax for corporate franchise tax for a taxable year shall be
5 filed and paid on the date specified in Subsection A or C of
6 this section for payment of corporate income tax for the
7 preceding taxable year.

8 C. A corporation that is required by the provisions
9 of the Corporate Income and Franchise Tax Act to file a return
10 or pay a tax and that is approved by the department to use
11 electronic media for filing and paying taxes shall, if using
12 electronic media for filing and paying taxes, file the return
13 and pay the tax levied for that taxable year on or before the
14 thirtieth day of the third month following the end of that
15 year."

16 SECTION 5. Section 7-3A-7 NMSA 1978 (being Laws 2003,
17 Chapter 86, Section 10, as amended) is amended to read:

18 "7-3A-7. STATEMENTS OF WITHHOLDING.--

19 A. Every remitter shall:

20 (1) file an annual statement of withholding
21 for each remittee that:

22 (a) is in electronic format and includes
23 a form 1099-Misc or a successor form or on a pro forma 1099-
24 Misc or a successor form for those entities that do not receive
25 an internal revenue service form 1099-Misc;

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1 (b) is filed with the department on or
2 before the last day of February of the year following that for
3 which the statement is made; and

4 (c) includes the total oil and gas
5 proceeds paid to the remittee and the total amount of tax
6 withheld for the calendar year; and

7 (2) provide a copy of the annual statement of
8 withholding to the remittee on or before February 15 of the
9 year following the year for which the statement is made.

10 B. The department shall develop and adopt rules
11 regarding the filing of a report pursuant to this section and
12 the attachment of form 1099-Misc or a successor form or a pro
13 forma 1099-Misc or a successor form, if the remitter is not
14 able to file those forms in an electronic format.

15 C. Every remitter shall file an electronic report
16 of the remittees who have certified that the remittee is
17 responsible for filing the remittee's own oil and gas proceeds
18 tax report and for paying the remittee's oil and gas proceeds
19 tax liability due.

20 D. Every pass-through entity doing business in New
21 Mexico shall:

22 (1) file an annual information return with the
23 department that:

24 (a) is filed on or before: 1) the due
25 date of the entity's federal return for the taxable year; or 2)

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1 if the entity's taxable year is a calendar year, if the entity
2 is approved by the department to use electronic media for
3 filing and if the entity uses electronic media to file the
4 annual information return, the end of the month in which the
5 entity's federal return is due;

6 (b) is signed by the business manager or
7 one of the owners of the pass-through entity; and

8 (c) contains all information required by
9 the department, including the pass-through entity's gross
10 income; the pass-through entity's net income; the amount of
11 each owner's allocable share of the pass-through entity's net
12 income; and the name, address and tax identification number of
13 each owner entitled to an allocable share of net income; and

14 (2) provide to each of its owners sufficient
15 information to enable the owner to comply with the provisions
16 of the Income Tax Act and the Corporate Income and Franchise
17 Tax Act with respect to the owner's allocable share of net
18 income.

19 E. The department shall compile each year the
20 annual statements of withholding received from the remitters
21 and the annual information returns received from pass-through
22 entities and compare the compilations with the records of
23 corporations, individuals, estates or trusts filing income tax
24 returns."

25 SECTION 6. Section 7-4-10 NMSA 1978 (being Laws 1993,

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1 Chapter 153, Section 1, as amended) is amended to read:

2 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

3 A. Except as provided in [~~Subsection B~~] Subsections
4 B and C of this section, all business income shall be
5 apportioned to this state by multiplying the income by a
6 fraction, the numerator of which is the property factor plus
7 the payroll factor plus the sales factor and the denominator of
8 which is three.

9 B. A taxpayer whose principal business activity in
10 New Mexico is manufacturing may elect to have business income
11 apportioned to this state:

12 (1) in the taxable year beginning on or after
13 January 1, 2014 and prior to January 1, 2015, by multiplying
14 the income by a fraction, the numerator of which is twice the
15 sales factor plus the property factor plus the payroll factor
16 and the denominator of which is four;

17 (2) in the taxable year beginning on or after
18 January 1, 2015 and prior to January 1, 2016, by multiplying
19 the income by a fraction, the numerator of which is three
20 multiplied by the sales factor plus the property factor plus
21 the payroll factor and the denominator of which is five;

22 (3) in the taxable year beginning on or after
23 January 1, 2016 and prior to January 1, 2017, by multiplying
24 the income by a fraction, the numerator of which is seven
25 multiplied by the sales factor plus one and one-half multiplied

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1 by the property factor plus one and one-half multiplied by the
2 payroll factor and the denominator of which is ten;

3 (4) in the taxable year beginning on or after
4 January 1, 2017 and prior to January 1, 2018, by multiplying
5 the income by a fraction, the numerator of which is eight
6 multiplied by the sales factor plus the property factor plus
7 the payroll factor and the denominator of which is ten; and

8 (5) in taxable years beginning on or after
9 January 1, 2018, by multiplying the income by a fraction, the
10 numerator of which is the total sales of the taxpayer in New
11 Mexico during the taxable year and the denominator of which is
12 the total sales of the taxpayer from any location within or
13 outside of the state during the taxable year.

14 C. A taxpayer whose principal business activity in
15 New Mexico is a headquarters operation may elect to have
16 business income apportioned to this state by multiplying the
17 income by a fraction, the numerator of which is the total sales
18 of the taxpayer in New Mexico during the taxable year and the
19 denominator of which is the total sales of the taxpayer from
20 any location within or outside of the state during the taxable
21 year.

22 [~~G.~~] D. To elect the method of apportionment
23 provided by Subsection B or C of this section, the taxpayer
24 shall notify the department of the election, in writing, no
25 later than the date on which the taxpayer files the return for

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1 the first taxable year to which the election will apply. The
2 election will apply to that taxable year and to each taxable
3 year thereafter until the taxpayer notifies the department, in
4 writing, that the election is terminated, except that the
5 taxpayer shall not terminate the election until the method of
6 apportioning business income provided by Subsection B or C of
7 this section has been used by the taxpayer for at least three
8 consecutive taxable years, including a total of at least
9 thirty-six calendar months. The election will apply to the
10 separately filed return of the taxpayer or the combined or
11 consolidated return the taxpayer has elected to be included
12 pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

13 [~~D-~~] E. For purposes of this section:

14 (1) "headquarters operation" means:

15 (a) the center of operations of a
16 business: 1) where corporate staff employees are physically
17 employed; 2) where centralized functions are performed,
18 including administrative, planning, managerial, human
19 resources, purchasing, information technology and accounting,
20 but not including operating a call center; 3) the function and
21 purpose of which is to manage and direct most aspects and
22 functions of the business operations within a subdivided area
23 of the United States; 4) from which final authority over
24 regional or subregional offices, operating facilities and any
25 other offices of the business are issued; and 5) including

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1 national and regional headquarters if the national headquarters
2 is subordinate only to the ownership of the business or its
3 representatives and the regional headquarters is subordinate to
4 the national headquarters; or

5 (b) the center of operations of a
6 business: 1) the function and purpose of which is to manage
7 and direct most aspects of one or more centralized functions;
8 and 2) from which final authority over one or more centralized
9 functions is issued; and

10 (2) "manufacturing" means combining or
11 processing components or materials to increase their value for
12 sale in the ordinary course of business, but does not include:

13 [~~(1)~~] (a) construction;
14 [~~(2)~~] (b) farming;
15 [~~(3)~~] (c) power generation, except for
16 electricity generation at a facility other than one for which
17 both location approval and a certificate of convenience and
18 necessity are required prior to commencing construction or
19 operation of the facility, pursuant to the Public Utility Act;
20 or

21 [~~(4)~~] (d) processing natural resources,
22 including hydrocarbons."

23 **SECTION 7.** Section 7-4-17 NMSA 1978 (being Laws 1965,
24 Chapter 203, Section 17, as amended) is amended to read:

25 "7-4-17. DETERMINATION OF SALES IN THIS STATE OF TANGIBLE

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1 PERSONAL PROPERTY FOR INCLUSION IN SALES FACTOR.--Sales of
2 tangible personal property are in this state if:

3 A. the property is delivered or shipped to a
4 purchaser other than the United States government within this
5 state regardless of the f. o. b. point or other conditions of
6 the sale; or

7 B. the property is shipped from an office, store,
8 warehouse, factory or other place of storage in this state and:

9 (1) the purchaser is the United States
10 government; or

11 (2) the taxpayer:

12 (a) is not taxable in the state of the
13 purchaser; and

14 (b) did not make an election for
15 apportionment of business income pursuant to Subsection B or C
16 of Section 7-4-10 NMSA 1978."

17 SECTION 8. Section 7-9-56.3 NMSA 1978 (being Laws 2003,
18 Chapter 232, Section 1, as amended) is amended to read:

19 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT
20 COMPANY IN A BORDER ZONE.--

21 A. The receipts of a trade-support company may be
22 deducted from gross receipts if:

23 (1) the trade-support company first locates in
24 New Mexico within twenty miles of a port of entry on New
25 Mexico's border with Mexico on or after July 1, 2003 but before

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1 July 1, 2013 or on or after January 1, 2016 but before January
2 1, 2021;

3 (2) the receipts are received by the company
4 within a five-year period beginning on the date the trade-
5 support company locates in New Mexico and the receipts are
6 derived from its business activities and operations at its
7 border zone location; and

8 (3) the trade-support company employs at least
9 two employees in New Mexico.

10 B. A taxpayer allowed a deduction pursuant to this
11 section shall report the amount of the deduction separately in
12 a manner required by the department.

13 C. The department shall compile an annual report on
14 the deduction created pursuant to this section that shall
15 include the number of taxpayers approved by the department to
16 receive the deduction, the aggregate amount of deductions
17 approved and any other information necessary to evaluate the
18 effectiveness of the deduction. Beginning in 2016 and every
19 four years thereafter that the deduction is in effect, the
20 department shall compile and present the annual reports to the
21 revenue stabilization and tax policy committee and the
22 legislative finance committee with an analysis of the
23 effectiveness and cost of the deduction.

24 [~~B.~~] D. As used in this section:

25 (1) "employee" means an individual, other than

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1 an individual who:

2 (a) bears any of the relationships
3 described in Paragraphs (1) through (8) of 26 U.S.C. Section
4 152(a) to the employer or, if the employer is a corporation, to
5 an individual who owns, directly or indirectly, more than fifty
6 percent in value of the outstanding stock of the corporation
7 or, if the employer is an entity other than a corporation, to
8 an individual who owns, directly or indirectly, more than fifty
9 percent of the capital and profits interests in the entity;

10 (b) if the employer is an estate or
11 trust, is a grantor, beneficiary or fiduciary of the estate or
12 trust or is an individual who bears any of the relationships
13 described in Paragraphs (1) through (8) of 26 U.S.C. Section
14 152(a) to a grantor, beneficiary or fiduciary of the estate or
15 trust; or

16 (c) is a dependent, as that term is
17 described in 26 U.S.C. Section 152(a)(9), of the employer, or,
18 if the taxpayer is a corporation, of an individual who owns,
19 directly or indirectly, more than fifty percent in value of the
20 outstanding stock of the corporation or, if the employer is an
21 entity other than a corporation, an individual who owns,
22 directly or indirectly, more than fifty percent of the capital
23 and profits interests in the entity or, if the employer is an
24 estate or trust, of a grantor, beneficiary or fiduciary of the
25 estate or trust;

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1 (2) "port of entry" means an international
2 port of entry in New Mexico at which customs services are
3 provided by United States customs and border protection; and

4 (3) "trade-support company" means a customs
5 brokerage firm or a freight forwarder."

6 SECTION 9. A new section of the Gross Receipts and
7 Compensating Tax Act is enacted to read:

8 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--GOODS AND
9 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
10 ENERGY AND SATELLITES.--

11 A. Prior to January 1, 2021, receipts from the sale
12 by a qualified contractor of qualified research and development
13 services and qualified directed energy and satellite-related
14 inputs may be deducted from gross receipts when sold pursuant
15 to a contract with the United States department of defense.

16 B. The purposes of the deduction allowed in this
17 section are to promote new and sophisticated technology,
18 enhance the viability of directed energy and satellite
19 projects, attract new projects and employers to New Mexico and
20 increase high-technology employment opportunities in New
21 Mexico.

22 C. A taxpayer allowed a deduction pursuant to this
23 section shall report the amount of the deduction separately in
24 a manner required by the department.

25 D. The department shall compile an annual report on

1 the deduction provided by this section that shall include the
2 number of taxpayers that claimed the deduction, the aggregate
3 amount of deductions claimed and any other information
4 necessary to evaluate the effectiveness of the deduction.
5 Beginning in 2017 and each year thereafter that the deduction
6 is in effect, the department and the economic development
7 department shall present the annual report to the revenue
8 stabilization and tax policy committee and the legislative
9 finance committee with an analysis of the effectiveness and
10 cost of the deduction and whether the deduction is performing
11 the purpose for which it was created.

12 E. As used in this section:

13 (1) "directed energy" means a system,
14 including related services, that enables the use of the
15 frequency spectrum, including radio waves, light and x-rays;

16 (2) "inputs" means systems, subsystems,
17 components, prototypes and demonstrators or products and
18 services involving optics, photonics, electronics, advanced
19 materials, nanoelectromechanical and microelectromechanical
20 systems, fabrication materials and test evaluation and computer
21 control systems related to directed energy or satellites;

22 (3) "qualified contractor" means a person
23 other than an organization designated as a national laboratory
24 by act of congress or an operator of national laboratory
25 facilities in New Mexico; provided that the operator may be a

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1 qualified contractor with respect to the operator's receipts
2 not connected with operating the national laboratory;

3 (4) "qualified directed energy and
4 satellite-related inputs" means inputs supplied to the
5 department of defense pursuant to a contract with that
6 department entered into on or after January 1, 2016;

7 (5) "qualified research and development
8 services" means research and development services related to
9 directed energy or satellites provided to the department of
10 defense pursuant to a contract with that department entered
11 into on or after January 1, 2016; and

12 (6) "satellite" means composite systems
13 assembled and packaged for use in space, including launch
14 vehicles and related products and services."

15 SECTION 10. Section 7-9F-1 NMSA 1978 (being Laws 2000
16 (2nd S.S.), Chapter 22, Section 1) is amended to read:

17 "7-9F-1. SHORT TITLE.--~~[This act]~~ Chapter 7, Article 9F
18 NMSA 1978 may be cited as the "Technology Jobs and Research and
19 Development Tax Credit Act."

20 SECTION 11. Section 7-9F-2 NMSA 1978 (being Laws 2000
21 (2nd S.S.), Chapter 22, Section 2) is amended to read:

22 "7-9F-2. PURPOSE OF ACT.--It is the purpose of the
23 Technology Jobs and Research and Development Tax Credit Act to
24 provide a favorable tax climate for technology-based businesses
25 engaging in research, development and experimentation and to

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1 promote increased employment and higher wages in those fields
2 in New Mexico."

3 SECTION 12. Section 7-9F-3 NMSA 1978 (being Laws 2000
4 (2nd S.S.), Chapter 22, Section 3) is amended to read:

5 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs and
6 Research and Development Tax Credit Act:

7 A. "affiliate" means a person who directly or
8 indirectly owns or controls, is owned or controlled by or is
9 under common ownership or control with another person through
10 ownership of voting securities or other ownership interests
11 representing a majority of the total voting power of the
12 entity;

13 B. "annual payroll expense" means the wages paid or
14 payable to employees in the state by the taxpayer [~~for the one-~~
15 ~~year period ending on the day~~] in the taxable year for which
16 the taxpayer applies for an additional credit pursuant to the
17 Technology Jobs and Research and Development Tax Credit Act;

18 C. "base payroll expense" means the wages paid or
19 payable by the taxpayer [~~for the one-year period ending on the~~
20 ~~day one year prior to the day~~] in the taxable year prior to the
21 taxable year for which the taxpayer applies for an additional
22 credit pursuant to the Technology Jobs and Research and
23 Development Tax Credit Act, adjusted for any increase from the
24 preceding taxable year in the consumer price index for the
25 United States for all items as published by the United States

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1 department of labor [~~since that day~~] in the taxable year for
2 which the additional credit is claimed. In a taxable year
3 during which a taxpayer has been part of a business merger or
4 acquisition or other change in business organization, the
5 taxpayer's base payroll expense shall include the payroll
6 expense of all entities included in the reorganization for all
7 positions that are included in the business entity resulting
8 from the reorganization;

9 D. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

13 E. "facility" means a factory, mill, plant,
14 refinery, warehouse, dairy, feedlot, building or complex of
15 buildings located within the state, including the land on which
16 [~~the facility~~] it is located and all machinery, equipment and
17 other real and tangible personal property located at or within
18 [~~the facility~~] it and used in connection with [~~the~~] its
19 operation [~~of the facility~~];

20 F. "local option gross receipts tax" means a tax
21 authorized to be imposed by a county or municipality upon the
22 taxpayer's gross receipts, as that term is defined in the Gross
23 Receipts and Compensating Tax Act, and required to be collected
24 by the department at the same time and in the same manner as
25 the gross receipts tax; "local option gross receipts tax"

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1 includes the taxes imposed pursuant to the Municipal Local
2 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
3 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,
4 Local Hospital Gross Receipts Tax Act, County Correctional
5 Facility Gross Receipts Tax Act and such other acts as may be
6 enacted authorizing counties or municipalities to impose taxes
7 on gross receipts, which taxes are to be collected by the
8 department in the same time and in the same manner as it
9 collects the gross receipts tax;

10 [F-] G. "qualified expenditure" means an
11 expenditure or an allocated portion of an expenditure by a
12 taxpayer in connection with qualified research at a qualified
13 facility, including expenditures for depletable land and rent
14 paid or incurred for land, improvements, the allowable amount
15 paid or incurred to operate or maintain a facility, buildings,
16 equipment, computer software, computer software upgrades,
17 consultants and contractors performing work in New Mexico,
18 payroll, technical books and manuals and test materials, but
19 not including any expenditure on property that is owned by a
20 municipality or county in connection with an industrial revenue
21 bond project, property for which the taxpayer has received any
22 credit pursuant to the [~~Capital Equipment Tax Credit Act or~~
23 ~~the~~] Investment Credit Act, property that was owned by the
24 taxpayer or an affiliate before [~~the effective date of the~~
25 ~~Technology Jobs Tax Credit Act~~] July 3, 2000 or research and

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1 development expenditures reimbursed by a person who is not an
2 affiliate of the taxpayer. If ~~[an]~~ a "qualified expenditure"
3 is an allocation of an expenditure, the cost accounting
4 methodology used for the allocation of the expenditure shall be
5 the same cost accounting methodology used by the taxpayer in
6 its other business activities;

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

11 ~~[H.]~~ I. "qualified research" means research:

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

14 (a) that is technological in nature; and
15 (b) the application of which is intended
16 to be useful in the development of a new or improved business
17 component of the taxpayer; and

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

23 J. "qualified research and development small
24 business" means a taxpayer that:

25 (1) employed no more than fifty employees as

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1 determined by the number of employees for which the taxpayer
2 was liable for unemployment insurance coverage in the taxable
3 year for which an additional credit is claimed;

4 (2) had total qualified expenditures of no
5 more than five million dollars (\$5,000,000) in the taxable year
6 for which an additional credit is claimed; and

7 (3) did not have more than fifty percent of
8 its voting securities or other equity interest with the right
9 to designate or elect the board of directors or other governing
10 body of the business owned directly or indirectly by another
11 business;

12 ~~[F.]~~ K. "rural area" means any area of the state
13 other than ~~[a class A county, a class B county that has a net~~
14 ~~taxable value for rate-setting purposes for any property tax~~
15 ~~year of more than three billion dollars (\$3,000,000,000), the~~
16 ~~municipality of Rio Rancho and the area within three miles of~~
17 ~~the exterior boundaries of a class A county]~~ the state
18 fairgrounds, an incorporated municipality with a population of
19 thirty thousand or more according to the most recent federal
20 decennial census and any area within three miles of the
21 external boundaries of an incorporated municipality with a
22 population of thirty thousand or more according to the most
23 recent federal decennial census;

24 ~~[J.]~~ L. "taxpayer" means any of the following
25 persons, other than a federal, state or other governmental unit

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1 or subdivision or an agency, department, institution or
2 instrumentality thereof:

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

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

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

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

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

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

19 [~~K-~~] M. "wages" means remuneration [~~in cash or~~
20 ~~other form~~] for services performed by an employee in New Mexico
21 for an employer."

22 SECTION 13. Section 7-9F-4 NMSA 1978 (being Laws 2000
23 (2nd S.S.), Chapter 22, Section 4) is amended to read:

24 "7-9F-4. ADMINISTRATION OF ACT.--The department shall
25 administer the Technology Jobs and Research and Development Tax

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1 Credit Act pursuant to the Tax Administration Act."

2 SECTION 14. Section 7-9F-5 NMSA 1978 (being Laws 2000
3 (2nd S.S.), Chapter 22, Section 5) is amended to read:

4 "7-9F-5. BASIC CREDIT--ADDITIONAL CREDIT--AMOUNTS--
5 CLAIMANT.--

6 A. The basic credit provided for in the Technology
7 Jobs and Research and Development Tax Credit Act is an amount
8 equal to [~~four~~] five percent of the amount of qualified
9 expenditures made by a taxpayer conducting qualified research
10 at a qualified facility.

11 B. The additional credit provided for in the
12 Technology Jobs and Research and Development Tax Credit Act is
13 an amount equal to [~~four~~] five percent of the amount of
14 qualified expenditures made by a taxpayer conducting qualified
15 research at a qualified facility."

16 SECTION 15. Section 7-9F-6 NMSA 1978 (being Laws 2000
17 (2nd S.S.), Chapter 22, Section 6) is amended to read:

18 "7-9F-6. ELIGIBILITY REQUIREMENTS.--

19 A. A taxpayer conducting qualified research at a
20 qualified facility and making qualified expenditures is
21 eligible to claim the basic credit pursuant to the Technology
22 Jobs and Research and Development Tax Credit Act.

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

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1 Technology Jobs and Research and Development Tax Credit Act if:

2 (1) the taxpayer increases the taxpayer's
3 annual payroll expense at the qualified facility by at least
4 seventy-five thousand dollars (\$75,000) over the base payroll
5 expense of the taxpayer;

6 (2) the increase in Paragraph (1) of this
7 subsection has not previously been used to meet the
8 requirements of this subsection; and

9 (3) there is at least a seventy-five-thousand-
10 dollar (\$75,000) increase in the taxpayer's annual payroll
11 expense for every one million dollars (\$1,000,000) in qualified
12 expenditures claimed by the taxpayer in a taxable year in the
13 same claim."

14 SECTION 16. Section 7-9F-9 NMSA 1978 (being Laws 2000
15 (2nd S.S.), Chapter 22, Section 9) is amended to read:

16 "7-9F-9. CLAIMING THE BASIC CREDIT [~~FOR CERTAIN TAXES~~].--

17 A. A taxpayer may apply for approval of a credit
18 within one year following the end of the [~~calendar year~~]
19 reporting period in which the qualified expenditure was made.

20 B. A taxpayer having applied for and been granted
21 approval for a basic credit by the department pursuant to the
22 Technology Jobs and Research and Development Tax Credit Act may
23 claim the amount of the approved basic credit against the
24 taxpayer's compensating tax, withholding tax or gross receipts
25 tax, [~~or withholding tax~~] excluding local option gross receipts

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1 tax, due to the state of New Mexico; provided that no taxpayer
2 may claim an amount of approved basic credit for ~~[any]~~ a
3 reporting period in which the basic credit is being claimed
4 that exceeds the sum of the taxpayer's compensating tax,
5 withholding tax and gross receipts tax, ~~[compensating tax and~~
6 ~~withholding tax]~~ excluding local option gross receipts tax, due
7 for that reporting period.

8 ~~[G.— A taxpayer who has applied for and been granted~~
9 ~~approval for an additional credit by the department pursuant to~~
10 ~~the Technology Jobs Tax Credit Act may claim the amount of the~~
11 ~~approved additional credit against the taxpayer's income tax or~~
12 ~~corporate income tax due the state of New Mexico; provided~~
13 ~~that:~~

14 ~~(1) no taxpayer may claim an amount of~~
15 ~~approved additional credit for any reporting period that~~
16 ~~exceeds the amount of the taxpayer's income tax or corporate~~
17 ~~income tax due for that reporting period; and~~

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

22 ~~D.]~~ C. Any amount of approved basic credit not
23 claimed against the taxpayer's compensating tax, withholding
24 tax or gross receipts tax, ~~[compensating tax or withholding~~
25 ~~tax]~~ excluding local option gross receipts tax, due ~~[and any~~

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1 ~~amount of approved additional credit not claimed against the~~
2 ~~taxpayer's income tax or corporate income tax due for a~~
3 ~~reporting period] may be claimed in subsequent reporting~~
4 ~~periods [provided that a husband and wife who file separate~~
5 ~~returns for a taxable year in which they could have filed a~~
6 ~~joint return may each claim only one half of the additional~~
7 ~~credit that would have been allowed them on a joint return] for~~
8 ~~a period of up to three years from the date of the original~~
9 ~~claim."~~

10 SECTION 17. A new section of the Technology Jobs and
11 Research and Development Tax Credit Act, Section 7-9F-9.1 NMSA
12 1978, is enacted to read:

13 "7-9F-9.1. [NEW MATERIAL] CLAIMING THE ADDITIONAL
14 CREDIT.--

15 A. A taxpayer may apply for approval of an
16 additional credit pursuant to the Technology Jobs and Research
17 and Development Tax Credit Act within one year following the
18 end of the taxable year in which the qualified expenditure was
19 made.

20 B. A taxpayer that has applied for and been granted
21 approval for an additional credit by the department pursuant to
22 the Technology Jobs and Research and Development Tax Credit Act
23 may claim the amount of the approved additional credit against
24 the taxpayer's income tax or corporate income tax liability.

25 Except as provided in Subsection C of this section, no taxpayer

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1 may claim an amount of approved additional credit for a taxable
2 year in which the additional credit is being claimed that
3 exceeds the amount of the taxpayer's income tax or corporate
4 income tax due for that taxable year.

5 C. If a taxpayer is a qualified research and
6 development small business and the amount of approved
7 additional credit for the taxable year in which the additional
8 credit is being claimed exceeds the taxpayer's income tax
9 liability or corporate income tax liability, the excess shall
10 be refunded to the taxpayer pursuant to Paragraphs (1) through
11 (3) of this subsection. If the taxpayer's total qualified
12 expenditures for the taxable year for which the claim is made
13 is:

14 (1) less than three million dollars
15 (\$3,000,000), the excess additional credit shall be refunded to
16 the taxpayer;

17 (2) greater than or equal to three million
18 dollars (\$3,000,000) and less than four million dollars
19 (\$4,000,000), two-thirds of the excess additional credit shall
20 be refunded to the taxpayer; and

21 (3) greater than or equal to four million
22 dollars (\$4,000,000) and less than or equal to five million
23 dollars (\$5,000,000), one-third of the excess additional credit
24 shall be refunded to the taxpayer.

25 D. Any amount of approved additional credit not

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1 claimed against the taxpayer's income tax or corporate income
2 tax due for a taxable year or refunded to the taxpayer may be
3 claimed in subsequent reporting periods for a period of up to
4 three years from the date of the original claim.

5 E. Married individuals filing separate returns for
6 a taxable year for which they could have filed a joint return
7 may each claim only one-half of the additional credit that
8 would have been claimed on a joint return."

9 SECTION 18. A new section of the Technology Jobs and
10 Research and Development Tax Credit Act is enacted to read:

11 "[NEW MATERIAL] TAXPAYER REPORTING REQUIREMENT.--A
12 taxpayer claiming a credit pursuant to the Technology Jobs and
13 Research and Development Tax Credit Act shall file reports with
14 the department. The reports shall be submitted on or before
15 June 30 of the year following a calendar year in which the
16 taxpayer claims a basic or additional credit and by June 30 of
17 each of the two succeeding years. The reports shall contain
18 information describing the taxpayer's business operations in
19 New Mexico that is sufficient for the department to enforce the
20 recapture provision pursuant to Section 7-9F-11 NMSA 1978. If
21 a taxpayer fails to submit a required report, the amount of any
22 basic or additional credit claimed for that year shall be
23 subject to the recapture provision."

24 SECTION 19. Section 7-13-11 NMSA 1978 (being Laws 1971,
25 Chapter 207, Section 10, as amended) is amended to read:

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1 "7-13-11. CLAIM FOR REFUND OR CREDIT OF GASOLINE TAX
2 PAID--ON GASOLINE DESTROYED BY FIRE, ACCIDENT OR ACTS OF GOD
3 BEFORE RETAIL SALE--ON GASOLINE PREVIOUSLY RECEIVED FROM A
4 SOURCE OTHER THAN A REFINER OR PIPELINE TERMINAL.--

5 A. Upon the submission of proof satisfactory to the
6 department, the department shall allow a claim for refund or
7 credit as provided in Sections 7-1-26 and 7-1-29 NMSA 1978 for
8 tax paid on gasoline destroyed by fire, accident or acts of God
9 while in the possession of a distributor, wholesaler or
10 retailer.

11 B. Upon the submission of proof satisfactory to the
12 department, a rack operator may submit, and the department may
13 allow, a claim for refund of a New Mexico tax paid on gasoline
14 previously received in New Mexico from a source other than a
15 refiner or pipeline terminal in this state and placed in a
16 terminal from which it will be loaded into tank cars, tank
17 trucks, tank wagons or other types of transportation equipment.

18 C. No person may submit claims for refund pursuant
19 to the provisions of this section more frequently than
20 quarterly. No claim for refund may be submitted or allowed on
21 less than one hundred gallons.

22 D. The department may prescribe the documents
23 necessary to support a claim for refund pursuant to the
24 provisions of this section."

25 SECTION 20. A new section of the Petroleum Products

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1 Loading Fee Act is enacted to read:

2 "[NEW MATERIAL] CLAIM FOR REFUND OF PETROLEUM PRODUCTS
3 LOADING FEE ON PRODUCTS PREVIOUSLY LOADED FROM A SOURCE OTHER
4 THAN A REFINER OR PIPELINE TERMINAL.--

5 A. Upon the submission of proof satisfactory to the
6 department, a distributor may claim, and the department may
7 allow, a claim for refund of the petroleum products loading fee
8 paid on petroleum products previously loaded in New Mexico from
9 a source other than a refiner or pipeline terminal in this
10 state and placed in a terminal from which it will be loaded
11 into tank cars, tank trucks, tank wagons or other types of
12 transportation equipment.

13 B. No person may submit claims for refund pursuant
14 to this section more frequently than quarterly. No claim for
15 refund may be submitted or allowed on less than one hundred
16 gallons.

17 C. The department may prescribe the documents
18 necessary to support a claim for refund pursuant to the
19 provisions of this section."

20 SECTION 21. Section 7-16A-13 NMSA 1978 (being Laws 1992,
21 Chapter 51, Section 13) is amended to read:

22 "7-16A-13. CLAIM FOR REFUND OR CREDIT OF SPECIAL FUEL
23 EXCISE TAX PAID--ON SPECIAL FUEL DESTROYED BY FIRE, ACCIDENT OR
24 ACTS OF GOD BEFORE RETAIL SALE--ON SPECIAL FUEL PREVIOUSLY
25 RECEIVED FROM A SOURCE OTHER THAN A REFINER OR PIPELINE

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1 TERMINAL.--

2 A. Upon the submission of proof satisfactory to the
3 department, the department shall allow a claim for refund or
4 credit of any special fuel excise tax or special fuel inventory
5 tax paid on special fuel destroyed by fire, accident or acts of
6 God while in the possession of a supplier, bulk storage user or
7 dealer.

8 B. Upon the submission of proof satisfactory to the
9 department, a rack operator may submit, and the department may
10 allow, a claim for refund of a New Mexico tax paid on special
11 fuel previously received in New Mexico from a source other than
12 a refiner or pipeline terminal in this state and placed in a
13 terminal from which it will be loaded into tank cars, tank
14 trucks, tank wagons or other types of transportation equipment.

15 C. No person may submit claims for refund pursuant
16 to the provisions of this section more frequently than
17 quarterly. No claim for refund may be submitted or allowed on
18 less than one hundred gallons.

19 D. The department may prescribe the documents
20 necessary to support a claim for refund pursuant to the
21 provisions of this section."

22 SECTION 22. TEMPORARY PROVISION--TRANSITION OF THE
23 RESEARCH AND DEVELOPMENT SMALL BUSINESS TAX CREDIT.--A taxpayer
24 that becomes eligible for a research and development small
25 business tax credit prior to January 1, 2016 but has not

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1 claimed the credit prior to January 1, 2016 may claim the
2 credit in accordance with the provisions of the Research and
3 Development Small Business Tax Credit Act in effect immediately
4 prior to January 1, 2016. The taxation and revenue department
5 shall approve claims submitted but not approved prior to
6 January 1, 2016 if the claim meets the requirements of the
7 Research and Development Small Business Tax Credit Act in
8 effect immediately prior to January 1, 2016. Claiming the
9 research and development small business tax credit pursuant to
10 this section with respect to a reporting period renders the
11 taxpayer ineligible to claim a credit for the same reporting
12 period pursuant to the Technology Jobs and Research and
13 Development Tax Credit Act.

14 **SECTION 23. TEMPORARY PROVISION--TRANSFER OF REFERENCE OF**
15 **LAW.--**On and after January 1, 2016, references in law to the
16 Technology Jobs Tax Credit Act shall be deemed to be references
17 to the Technology Jobs and Research and Development Tax Credit
18 Act.

19 **SECTION 24. REPEAL.--**Sections 7-9F-7 and 7-9H-1 through
20 7-9H-6 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22,
21 Section 7 and Laws 2005, Chapter 104, Sections 11 through 16,
22 as amended) are repealed.

23 **SECTION 25. APPLICABILITY.--**

24 A. The provisions of Sections 2 through 7 and 17 of
25 this act apply to taxable years beginning on or after January

.201867.9

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

1 1, 2015.

2 B. The provisions of Sections 10 through 18 of this
3 act apply to taxpayers that make a qualified expenditure
4 beginning on or after January 1, 2015.

5 SECTION 26. EFFECTIVE DATE.--The effective date of the
6 provisions of Sections 8 through 24 of this act is January 1,
7 2016.