

1 SENATE BILL 184

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 John M. Sapien

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10 AN ACT

11 RELATING TO TAXATION; EXTENDING THE DATE CERTAIN PROVISIONS OF
12 A TAX CREDIT PROVIDED IN THE INVESTMENT CREDIT ACT APPLY;
13 PROVIDING A TERMINATION DATE FOR THE CREDIT; INCLUDING A
14 CALCULATION FOR THE CREDIT IF THE SALE OF QUALIFIED EQUIPMENT
15 FOR WHICH THE CREDIT IS ALLOWED IS SUBJECT TO THE GROSS
16 RECEIPTS TAX; INCLUDING A CALCULATION FOR THE CREDIT IF THE
17 QUALIFIED EQUIPMENT IS NOT SUBJECT TO THE GROSS RECEIPTS TAX OR
18 THE COMPENSATING TAX.

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

21 SECTION 1. Section 7-9A-5 NMSA 1978 (being Laws 1979,
22 Chapter 347, Section 5, as amended by Laws 1991, Chapter 159,
23 Section 4 and also by Laws 1991, Chapter 162, Section 4) is
24 amended to read:

25 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

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1 A. The investment credit provided for in the
2 Investment Credit Act ~~[is an]~~ may be claimed by a taxpayer
3 carrying on a manufacturing operation in New Mexico in an
4 amount equal to ~~[the percent of]~~:

5 (1) the sum of the compensating tax rate
6 ~~[provided for in the Gross Receipts and Compensating Tax Act~~
7 ~~applied to]~~ and any municipal or county local option
8 compensating tax rates multiplied by the value of the qualified
9 equipment ~~[and may be claimed by the taxpayer carrying on a~~
10 ~~manufacturing operation in New Mexico]~~; or

11 (2) if the sale is subject to the gross
12 receipts tax, the sum of the gross receipts tax rate and any
13 municipal or county local option gross receipts tax rates
14 multiplied by the seller's gross receipts from the sale of the
15 qualified equipment.

16 B. If the purchase or the introduction into New
17 Mexico of the qualified equipment is not subject to the gross
18 receipts tax or compensating tax, the rate to determine the
19 amount of the credit shall be equal to a rate of five and one-
20 eighth percent."

21 SECTION 2. Section 7-9A-7 NMSA 1978 (being Laws 1979,
22 Chapter 347, Section 7, as amended) is amended to read:

23 "7-9A-7. VALUE OF QUALIFIED EQUIPMENT.--

24 A. Prior to July 1, ~~[2020]~~ 2030, the value of
25 qualified equipment shall be the adjusted basis established for

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1 the equipment under the applicable provisions of the Internal
2 Revenue Code of 1986.

3 B. ~~[After June 30, 2020]~~ On and after July 1, 2030
4 and prior to July 1, 2040, the value of qualified equipment
5 shall be the purchase price of the equipment unless the
6 equipment is introduced into New Mexico and has been owned for
7 more than one year prior to its introduction into New Mexico by
8 the taxpayer applying for the credit, in which case the value
9 shall be the reasonable value of the equipment at the time of
10 its introduction into New Mexico; provided that no taxpayer
11 shall for any taxable year claim a value of qualified equipment
12 greater than two million dollars (\$2,000,000)."

13 SECTION 3. Section 7-9A-7.1 NMSA 1978 (being Laws 1983,
14 Chapter 206, Section 6, as amended) is amended to read:

15 "7-9A-7.1. EMPLOYMENT REQUIREMENTS.--

16 A. Prior to July 1, ~~[2020]~~ 2030, to be eligible to
17 claim a credit pursuant to the Investment Credit Act, the
18 taxpayer shall employ the equivalent of one full-time employee
19 who has not been counted to meet this employment requirement
20 for any prior claim in addition to the number of full-time
21 employees employed on the day one year prior to the day on
22 which the taxpayer applies for the credit for every:

23 (1) ~~[five hundred thousand dollars (\$500,000)]~~
24 seven hundred fifty thousand dollars (\$750,000), or portion of
25 that amount, in value of qualified equipment claimed by the

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1 taxpayer in a taxable year in the same claim, up to a value of
2 thirty million dollars (\$30,000,000); and

3 (2) one million dollars (\$1,000,000), or
4 portion of that amount, in value of qualified equipment over
5 thirty million dollars (\$30,000,000) claimed by the taxpayer in
6 a taxable year in the same claim.

7 B. ~~[After June 30, 2020]~~ On and after July 1, 2030
8 and prior to July 1, 2040, for every one hundred thousand
9 dollars (\$100,000) in value of qualified equipment claimed by a
10 taxpayer in a taxable year, the taxpayer shall employ the
11 equivalent of one full-time employee in addition to the number
12 of full-time employees employed on the day one year prior to
13 the day on which the taxpayer applies for credit.

14 C. The department may require evidence showing
15 compliance with this section. The department may find that an
16 additional employee meets the requirements of this section,
17 although employed earlier than one year prior to the day on
18 which the taxpayer applies for the credit, if the employee was
19 only being trained prior to that date or the employee's
20 employment was necessitated by the use of the qualified
21 equipment."

22 SECTION 4. Section 7-9A-8 NMSA 1978 (being Laws 1979,
23 Chapter 347, Section 8, as amended) is amended to read:

24 "7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

25 A. A taxpayer shall apply for approval for a credit

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1 within one year following the end of the calendar year in which
2 the qualified equipment for the manufacturing operation is
3 purchased or introduced into New Mexico.

4 B. A taxpayer having applied for and been granted
5 approval for a credit by the department pursuant to the
6 Investment Credit Act may claim an amount of available credit
7 against the taxpayer's [~~compensating tax, gross receipts tax or~~
8 ~~withholding tax due to the state of New Mexico~~] tax
9 liabilities; provided that no taxpayer may claim, except as
10 provided in Subsection C of this section, an amount of
11 available credit for any reporting period that exceeds eighty-
12 five percent of the sum of the taxpayer's [~~gross receipts tax,~~
13 ~~compensating tax and withholding~~] tax [~~due~~] liabilities for
14 that reporting period. Any amount of available credit not
15 claimed against the taxpayer's [~~gross receipts tax,~~
16 ~~compensating tax or withholding~~] tax [~~due~~] liabilities for a
17 reporting period may be claimed in subsequent reporting
18 periods.

19 C. A taxpayer may apply by September 30 of the
20 current calendar year for a refund of the unclaimed balance of
21 the available credit up to a maximum of two hundred fifty
22 thousand dollars (\$250,000) if on January 1 of the current
23 calendar year:

24 (1) the taxpayer's available credit is less
25 than five hundred thousand dollars (\$500,000); and

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1 (2) the sum of the taxpayer's [~~gross receipts~~
2 ~~tax, compensating tax and withholding~~] tax [~~due~~] liabilities
3 for the previous calendar year was less than thirty-five
4 percent of the taxpayer's available credit but more than ten
5 thousand dollars (\$10,000).

6 D. As used in this section, "tax liabilities" means
7 any tax liability a taxpayer incurs pursuant to the Withholding
8 Tax Act, the Gross Receipts and Compensating Tax Act, the
9 Municipal Local Option Gross Receipts and Compensating Taxes
10 Act and the County Local Option Gross Receipts and Compensating
11 Taxes Act."

12 **SECTION 5. APPLICABILITY.**--The provisions of Section 4 of
13 this act apply to qualified equipment purchased or introduced
14 to the state on and after July 1, 2020.

15 **SECTION 6. EFFECTIVE DATE.**--The effective date of the
16 provisions of this act is July 1, 2020.