

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 288

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO TAXATION; PERMITTING A GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN RESEARCH AND DEVELOPMENT SERVICES SOLD PURSUANT TO GRANTS FROM OR CONTRACTS WITH THE UNITED STATES GOVERNMENT; PERMITTING A GROSS RECEIPTS TAX DEDUCTION FOR PROPERTY SOLD FOR USE IN THE PERFORMANCE OF THOSE SERVICES; ELIMINATING A GROSS RECEIPTS TAX DEDUCTION FOR THE SALE OF AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS; BROADENING A COMPENSATING TAX DEDUCTION FOR TEST ARTICLES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-9-54.5 NMSA 1978 (being Laws 2004, Chapter 16, Section 3) is amended to read:

"7-9-54.5. DEDUCTION--COMPENSATING TAX--TEST ARTICLES.--

A. The value of test articles upon which research

underscored material = new  
[bracketed material] = delete

1 or testing is conducted in New Mexico pursuant to a contract  
2 with the United States [~~department of defense~~] government or  
3 any of its agencies or instrumentalities may be deducted in  
4 computing the compensating tax due.

5 B. As used in this section, "test article" means:

6 (1) a material or device upon which research  
7 or testing is conducted to determine the properties and  
8 qualities of the material or the properties, qualities or  
9 functioning of the device or a technology used with the device;  
10 or

11 (2) tangible personal property or intangible  
12 property used for research or testing of a material or device  
13 upon which research or testing is conducted if the property is  
14 consumed or becomes unfit for use as a result of the research  
15 or testing.

16 C. The deduction provided by this section does not  
17 apply to the value of property purchased by a prime contractor  
18 operating [~~a~~] any facility in New Mexico for the United States  
19 government or any of its agencies or instrumentalities,  
20 including a facility designated as a national laboratory by an  
21 act of congress."

22 Section 2. A new section of the Gross Receipts and  
23 Compensating Tax Act is enacted to read:

24 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--RESEARCH  
25 AND DEVELOPMENT SERVICES FOR THE UNITED STATES GOVERNMENT.--

.160440.1

underscoring material = new  
[bracketed material] = delete

1 Receipts from selling a research and development service  
2 pursuant to a grant from or a contract with the United States  
3 government or any of its agencies or instrumentalities may be  
4 deducted from gross receipts, except for:

5 A. receipts of a prime contractor for operation of  
6 a facility designated as a national laboratory by an act of  
7 congress; and

8 B. receipts from selling a service to a prime  
9 contractor that uses the service for the operation of any  
10 facility in New Mexico pursuant to that prime contractor's  
11 contract with the United States government or any of its  
12 agencies or instrumentalities, including a facility designated  
13 as a national laboratory by an act of congress."

14 Section 3. A new section of the Gross Receipts and  
15 Compensating Tax Act is enacted to read:

16 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--TANGIBLE  
17 PERSONAL PROPERTY USED FOR RESEARCH AND DEVELOPMENT SERVICES  
18 FOR THE UNITED STATES GOVERNMENT.--

19 A. Receipts from selling tangible personal property  
20 that will be used in the performance of a research and  
21 development service sold pursuant to a grant from or a contract  
22 with the United States government or any of its agencies or  
23 instrumentalities may be deducted from gross receipts, except  
24 for:

25 (1) receipts from selling tangible personal

.160440.1

underscoring material = new  
[bracketed material] = delete

1 property that will be used in the performance of a research and  
2 development service by a prime contractor for operation of a  
3 facility designated as a national laboratory by an act of  
4 congress; and

5 (2) receipts from selling tangible personal  
6 property that will be used in the performance of a research and  
7 development service sold to a prime contractor for use in that  
8 contractor's operation of any facility in New Mexico pursuant  
9 to a contract with the United States government or any of its  
10 agencies or instrumentalities, including a facility designated  
11 as a national laboratory by an act of congress.

12 B. The deduction provided by this section may be  
13 claimed by a taxpayer only if the sale is made to a person who  
14 delivers a nontaxable transaction certificate to the seller.  
15 The buyer delivering the nontaxable transaction certificate  
16 must use the tangible personal property in the performance of a  
17 research and development service pursuant to a grant from or a  
18 contract with the United States government and shall not use  
19 the tangible personal property in the performance of a research  
20 and development service:

21 (1) by a prime contractor for operation of a  
22 facility designated as a national laboratory by an act of  
23 congress; or

24 (2) sold to a prime contractor for use in the  
25 operation of any facility in New Mexico pursuant to a contract

.160440.1

underscoring material = new  
[bracketed material] = delete

1 between that prime contractor and the United States government  
2 or any of its agencies or instrumentalities, including a  
3 facility designated as a national laboratory by an act of  
4 congress."

5 Section 4. REPEAL.--Section 7-9-54.1 NMSA 1978 (being  
6 Laws 1992, Chapter 40, Section 1, as amended) is repealed.

7 Section 5. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2006.

9 - 5 -

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25