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HOUSE BILL 255

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

INTRODUCED BY

Abbas Akhil and Christine Chandler and Joseph L. Sanchez and
Jason C. Harper

AN ACT

RELATING TO TAXATION; CREATING A TEMPORARY TECHNOLOGY READINESS
GROSS RECEIPTS TAX CREDIT; CREATING THE TECHNOLOGY READINESS
GROSS RECEIPTS TAX CREDIT FUND; MAKING A DISTRIBUTION TO THE
TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND; PROVIDING
A DELAYED REPEAL.

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

SECTION 1. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"[NEW MATERIAL] TECHNOLOGY READINESS GROSS RECEIPTS TAX
CREDIT--TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND.--

A. For taxable periods beginning July 1, 2020 and
prior to July 1, 2025, a taxpayer that is a national laboratory
that provides technology readiness assistance to a business
that is registered to do business in New Mexico and has

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1 licensed a technology from the national laboratory or is a
2 participant in a cooperative research and development agreement
3 with the national laboratory may claim a tax credit against the
4 taxpayer's gross receipts tax liability imposed pursuant to the
5 Gross Receipts and Compensating Tax Act, excluding any local
6 option gross receipts tax liability. The tax credit provided
7 by this section may be referred to as the "technology readiness
8 gross receipts tax credit".

9 B. The purpose of the technology readiness gross
10 receipts tax credit is to help businesses in New Mexico achieve
11 technology maturation of the businesses' technologies developed
12 at New Mexico national laboratories and increase economic
13 development in the state.

14 C. The "technology readiness gross receipts tax
15 credit fund" is created in the state treasury. The department
16 shall administer the fund, and money in the fund shall be used
17 to offset technology readiness gross receipts tax credits;
18 provided that money in the fund is subject to appropriation by
19 the legislature for any purpose. Technology readiness gross
20 receipts tax credits shall not be credited against any other
21 fund. If the department approves a technology readiness gross
22 receipts tax credit, the amount of the credit shall be
23 transferred from the fund to the general fund. Disbursements
24 from the fund shall be made upon warrants drawn by the
25 secretary of finance and administration pursuant to vouchers

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1 signed by the secretary of taxation and revenue. Money in the
2 fund shall revert to the general fund at the end of fiscal year
3 2026.

4 D. Subject to the availability of funds in the
5 technology readiness gross receipts tax credit fund, the amount
6 of a technology readiness gross receipts tax credit shall equal
7 the amount of qualified expenditures incurred by a national
8 laboratory to provide technology readiness assistance to a
9 business, not to exceed one hundred fifty thousand dollars
10 (\$150,000) in a fiscal year per business; provided that the
11 annual aggregate amount of credits allowed per national
12 laboratory per fiscal year shall be limited as follows:

13 (1) beginning July 1, 2020 and prior to July
14 1, 2021, five hundred thousand dollars (\$500,000);

15 (2) beginning July 1, 2021 and prior to July
16 1, 2022, seven hundred fifty thousand dollars (\$750,000);

17 (3) beginning July 1, 2022 and prior to July
18 1, 2024, one million dollars (\$1,000,000); and

19 (4) beginning July 1, 2024 and prior to July
20 1, 2025, one million five hundred thousand dollars
21 (\$1,500,000).

22 E. A taxpayer may claim a technology readiness
23 gross receipts tax credit for the taxable period in which the
24 taxpayer provides technology assistance pursuant to this
25 section. That portion of a technology readiness gross receipts

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1 tax credit that exceeds a taxpayer's tax liability in the
2 taxable period in which the credit is claimed may be carried
3 forward to succeeding taxable periods.

4 F. To receive a technology readiness gross receipts
5 tax credit, a taxpayer shall apply to the department on forms
6 and in the manner required by the department. The application
7 shall include the following:

8 (1) certification from each business that
9 received technology readiness assistance that:

10 (a) the assistance was made in good
11 faith to help the business demonstrate the feasibility of real-
12 world application of the business's technology; and

13 (b) the assistance was not otherwise
14 available to the business at a reasonable cost through private
15 industry;

16 (2) evidence that the business that received
17 the technology readiness assistance is registered to do
18 business in New Mexico; and

19 (3) evidence that the business's technology is
20 a licensed technology from the national laboratory or the
21 business is a participant in a cooperative research and
22 development agreement with the national laboratory.

23 G. In addition to the requirements in Subsection F
24 of this section, a national laboratory shall:

25 (1) create forms for technology readiness

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1 assistance requests and completion of technology maturation;

2 (2) establish a technology readiness
3 assistance program that will assist businesses to reach
4 technology maturation;

5 (3) consult with the secretary of economic
6 development to seek advice on improvements in the operation of
7 the technology readiness assistance program; and

8 (4) establish a methodology to use state
9 educational institutions that have demonstrated the capability
10 to provide technology readiness assistance.

11 H. A taxpayer shall not claim both a technology
12 readiness gross receipts tax credit and a credit pursuant to
13 the Laboratory Partnership with Small Business Tax Credit Act
14 for assistance provided to the same business in the same
15 taxable period.

16 I. If more than one national laboratory provides
17 technology readiness assistance to a business, the national
18 laboratories shall not claim a technology readiness gross
19 receipts tax credit until coordination is developed between the
20 national laboratories providing the assistance that generates a
21 joint operational plan to ensure that:

22 (1) the assistance provided by each national
23 laboratory suits the business's needs and challenges; and

24 (2) the combined claims for a technology
25 readiness gross receipts tax credit will not exceed the

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1 limitations provided in Subsection D of this section.

2 J. A national laboratory that claims a technology
3 readiness gross receipts tax credit shall submit an annual
4 report in writing to the department, the economic development
5 department and an appropriate legislative interim committee.

6 If more than one national laboratory claims a technology
7 readiness gross receipts tax credit, those laboratories shall
8 jointly submit an annual report. The annual report shall
9 summarize activities related to and the results of the
10 technology readiness assistance programs created by the
11 national laboratories and shall include:

12 (1) a description of each business's
13 technology that has received technology readiness assistance,
14 including progress toward technology maturation and whether,
15 and to what extent, the business is still doing business in New
16 Mexico;

17 (2) results of surveys of businesses to which
18 technology readiness assistance is provided;

19 (3) the total amount of the technology
20 readiness gross receipts tax credits received in the previous
21 fiscal year; and

22 (4) an economic impact study performed by an
23 uninterested third party.

24 K. At any time after receipt of an annual report
25 required pursuant to this section, the department or the

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1 economic development department may provide written
2 instructions to a national laboratory identifying future
3 improvements in the national laboratory's technology readiness
4 assistance program for which it receives a technology readiness
5 gross receipts tax credit.

6 L. As used in this section:

7 (1) "cooperative research and development
8 agreement" means any agreement between a national laboratory
9 and a non-federal party under which the laboratory provides
10 personnel, services, facilities, equipment, intellectual
11 property or other resources and a non-federal party provides
12 funds, personnel, services, facilities, equipment, intellectual
13 property or other resources toward the conduct of specified
14 research or development efforts that are consistent with the
15 missions of the laboratory;

16 (2) "national laboratory" means a prime
17 contractor designated as a national laboratory by act of
18 congress that is operating a facility in New Mexico;

19 (3) "qualified expenditure" means an
20 expenditure by a national laboratory in providing technology
21 readiness assistance and is limited to the following:

22 (a) employee salaries, wages, benefits
23 and employer payroll taxes;

24 (b) administrative costs related
25 directly to the provision of technology readiness assistance;

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1 (c) in-state travel expenses, including
2 per diem and mileage at the internal revenue service standard
3 rate; and

4 (d) supplies and services of contractors
5 that are related to the provision of technology readiness
6 assistance;

7 (4) "state educational institution" means a
8 state educational institution named in Article 12, Section 11
9 of the constitution of New Mexico;

10 (5) "technology maturation" means technology
11 that has been developed to a stage that results in a prototype
12 or demonstration of the feasibility of real-world application
13 of the technology; and

14 (6) "technology readiness assistance" means
15 assistance provided to a business by a national laboratory with
16 the intent to help the business's technology achieve technology
17 maturation."

18 SECTION 2. TEMPORARY PROVISION--DISTRIBUTION TO
19 TECHNOLOGY READINESS GROSS RECEIPTS TAX CREDIT FUND.--Prior to
20 July 1, 2020, a one-time distribution pursuant to Section
21 7-1-6.1 NMSA 1978 shall be made to the technology readiness
22 gross receipts tax fund in an amount equal to nine million five
23 hundred thousand dollars (\$9,500,000) of the net receipts
24 attributable to the gross receipts tax.

25 SECTION 3. DELAYED REPEAL.--Section 1 of this act is

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1 repealed effective July 1, 2026.

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