

FIFTY-FOURTH LEGISLATURE
SECOND SESSION, 2020

HB 326/a

February 17, 2020

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 326, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Corporations and Transportation Committee Amendments 5 and 6.

2. On page 1, line 19, after the semicolon and after Senate Corporations and Transportation Committee Amendment 2, insert:

"EXTENDING THE DATE OF A TAX CREDIT PROVIDED IN THE INVESTMENT CREDIT ACT; PROVIDING A TERMINATION DATE FOR THE CREDIT; INCLUDING A CALCULATION FOR THE CREDIT IF THE SALE OF QUALIFIED EQUIPMENT FOR WHICH THE CREDIT IS ALLOWED IS SUBJECT TO THE GROSS RECEIPTS TAX; INCLUDING A CALCULATION FOR THE CREDIT IF THE QUALIFIED EQUIPMENT IS NOT SUBJECT TO THE GROSS RECEIPTS TAX OR THE COMPENSATING TAX; PROVIDING THAT THE CREDIT WILL BE CLAIMED AGAINST A TAXPAYER'S STATE AND LOCAL TAX LIABILITIES;"

3. On page 18, between lines 11 and 12 and after Senate Corporations and Transportation Committee Amendment 4, insert the following new sections:

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

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

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

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(1) the product of the sum of the compensating tax rate [provided for in the Gross Receipts and Compensating Tax Act applied to] and, beginning July 1, 2021, any municipal or county compensating tax rate multiplied by the value of the qualified equipment [and may be claimed by the taxpayer carrying on a manufacturing operation in New Mexico]; or

(2) if the sale is subject to the gross receipts tax, the product of the sum of the gross receipts tax rate and, beginning July 1, 2021, any municipal or county local option gross receipts tax rates multiplied by the seller's gross receipts from the sale of the qualified equipment.

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

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

"7-9A-7. VALUE OF QUALIFIED EQUIPMENT.--~~[A.]~~ Prior to July 1, ~~[2020]~~ 2030, the value of qualified equipment shall be the adjusted basis established for the equipment under the applicable provisions of the Internal Revenue Code of 1986.

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

SECTION 9. Section 7-9A-7.1 NMSA 1978 (being Laws 1983,

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Chapter 206, Section 6, as amended) is amended to read:

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

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

(1) [~~five hundred thousand dollars (\$500,000)~~] seven hundred fifty thousand dollars (\$750,000), or portion of that amount, in value of qualified equipment claimed by the taxpayer in a taxable year in the same claim, up to a value of thirty million dollars (\$30,000,000); and

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

~~[B. After June 30, 2020, for every one hundred thousand dollars (\$100,000) in value of qualified equipment claimed by a taxpayer in a taxable year, the taxpayer shall employ the equivalent of one full-time employee in addition to the number of full-time employees employed on the day one year prior to the day on which the taxpayer applies for credit.~~

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

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SECTION 10. Section 7-9A-8 NMSA 1978 (being Laws 1979, Chapter 347, Section 8, as amended) is amended to read:

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

A. A taxpayer shall apply for approval for a credit within one year following the end of the calendar year in which the qualified equipment for the manufacturing operation is purchased or introduced into New Mexico.

B. A taxpayer having applied for and been granted approval for a credit by the department pursuant to the Investment Credit Act may claim an amount of available credit against the taxpayer's [~~compensating tax, gross receipts tax or withholding tax due to the state of New Mexico~~] tax liabilities; provided that the credit shall be claimed against the taxpayer's tax liabilities pursuant to the Gross Receipts and Compensating Tax Act, the Municipal Local Option Gross Receipts and Compensating Taxes Act and the County Local Option Gross Receipts and Compensating Taxes Act before being claimed against the taxpayer's tax liabilities pursuant to the Withholding Tax Act; provided further that no taxpayer may claim, except as provided in Subsection C of this section, an amount of available credit for any reporting period that exceeds eighty-five percent of the sum of the taxpayer's [~~gross receipts tax, compensating tax and withholding~~] tax [~~due~~] liabilities for that reporting period. Any amount of available credit not claimed against the taxpayer's [~~gross receipts tax, compensating tax or withholding~~] tax [~~due~~] liabilities for a reporting period may be claimed in subsequent reporting periods.

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

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

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

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

4. On pages 26 and 27, strikes Sections 11 and 12 in their entirety and insert in lieu thereof the following new sections:

"SECTION 16. APPLICABILITY.--

A. The provisions of Section 3 of this act apply to taxable years beginning on and after January 1, 2020.

B. The provisions of Section 9 of this act apply to qualified equipment purchased or introduced to the state on and after July 1, 2020.

SECTION 17. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 2, 4 and 15 of this act is July 1, 2021.

B. The effective date of the provisions of Sections 6 through 12 of this act is July 1, 2020."

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5. Renumber sections to correspond to these amendments.

Respectfully submitted,

John Arthur Smith, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

No: 0

Excused: None

Absent: None

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