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AN ACT

RELATING TO TAXATION; TRANSFERRING REVIEW AND APPROVAL OF
ANGEL INVESTMENT CREDITS FROM THE ECONOMIC DEVELOPMENT
DEPARTMENT TO THE TAXATION AND REVENUE DEPARTMENT; REQUIRING
APPLICATION MATERIALS FOR THE TAX CREDIT TO CONTINUE TO BE
SENT TO THE ECONOMIC DEVELOPMENT DEPARTMENT.

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

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

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

A. A taxpayer who files a New Mexico income tax
return, is not a dependent of another taxpayer, is an
accredited investor and makes a qualified investment may
apply for, and the department may allow, a claim for a credit
in an amount not to exceed twenty-five percent of the
qualified investment; provided that a credit for each
qualified investment shall not exceed sixty-two thousand five
hundred dollars (\$62,500). The tax credit provided in this
section shall be known as the "angel investment credit".

B. A taxpayer may claim the angel investment
credit:

(1) for not more than one qualified
investment per investment round;

(2) for qualified investments in no more

1 than five qualified businesses per taxable year; and

2 (3) for a qualified investment made on or
3 before December 31, 2025.

4 C. A taxpayer may apply for an angel investment
5 credit by submitting a completed application to the taxation
6 and revenue department on forms and in a manner required by
7 the department no later than one year following the end of
8 the calendar year in which the qualified investment is made.
9 A taxpayer shall not apply for more than one credit for the
10 same qualified investment in the same investment round.

11 D. Except as provided in Subsection J of this
12 section, a taxpayer shall claim the angel investment credit
13 no later than one year following the date the completed
14 application for the credit is approved by the department.

15 E. Applications and all subsequent materials
16 submitted to the taxation and revenue department related to
17 the application shall also be submitted to the economic
18 development department.

19 F. The taxation and revenue department shall allow
20 a maximum annual aggregate of two million dollars
21 (\$2,000,000) in angel investment credits per calendar year.
22 Completed applications shall be considered in the order
23 received. Applications for credits that would have been
24 allowed but for the limit imposed by this subsection shall be
25 allowed in subsequent calendar years.

1 G. The taxation and revenue department shall
2 report annually to the revenue stabilization and tax policy
3 committee and the legislative finance committee on the
4 utilization and effectiveness of the angel investment credit.
5 The report shall include, at a minimum: the number of
6 accredited investors determined to be eligible for the credit
7 in the previous year; the names of those investors; the
8 amount of credit for which each investor was determined to be
9 eligible; and the number and names of the businesses
10 determined to be qualified businesses for purposes of an
11 investment by an accredited investor.

12 H. A taxpayer who otherwise qualifies for and
13 claims a credit pursuant to this section for a qualified
14 investment made by a partnership or other business
15 association of which the taxpayer is a member may claim a
16 credit only in proportion to the taxpayer's interest in the
17 partnership or business association.

18 I. Married individuals who file separate returns
19 for a taxable year in which they could have filed a joint
20 return may each claim one-half of the credit that would have
21 been allowed on a joint return.

22 J. The angel investment credit may only be
23 deducted from the taxpayer's income tax liability. Any
24 portion of the tax credit provided by this section that
25 remains unused at the end of the taxpayer's taxable year may

1 be carried forward for five consecutive years.

2 K. As used in this section:

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

7 (2) "business" means a corporation, general
8 partnership, limited partnership, limited liability company
9 or other similar entity, but excludes an entity that is a
10 government or a nonprofit organization designated as such by
11 the federal government or any state;

12 (3) "equity" means common or preferred stock
13 of a corporation, a partnership interest in a limited
14 partnership or a membership interest in a limited liability
15 company, including debt subject to an option in favor of the
16 creditor to convert the debt into common or preferred stock,
17 a partnership interest or a membership interest;

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

24 (5) "manufacturing" means combining or
25 processing components or materials to increase their value

1 for sale in the ordinary course of business, but does not
2 include:

3 (a) construction;

4 (b) farming;

5 (c) processing natural resources,
6 including hydrocarbons; or

7 (d) preparing meals for immediate
8 consumption, on- or off-premises;

9 (6) "qualified business" means a business
10 that:

11 (a) maintains its principal place of
12 business and employs a majority of its full-time employees,
13 if any, in New Mexico and a majority of its tangible assets,
14 if any, are located in New Mexico;

15 (b) engages in qualified research or
16 manufacturing activities in New Mexico;

17 (c) is not primarily engaged in or is
18 not primarily organized as any of the following types of
19 businesses: credit or finance services, including banks,
20 savings and loan associations, credit unions, small loan
21 companies or title loan companies; financial brokering or
22 investment; professional services, including accounting,
23 legal services, engineering and any other service the
24 practice of which requires a license; insurance; real estate;
25 construction or construction contracting; consulting or

1 brokering; mining; wholesale or retail trade; providing
2 utility service, including water, sewerage, electricity,
3 natural gas, propane or butane; publishing, including
4 publishing newspapers or other periodicals; broadcasting; or
5 providing internet operating services;

6 (d) has not issued securities
7 registered pursuant to Section 6 of the federal Securities
8 Act of 1933, as amended; has not issued securities traded on
9 a national securities exchange; is not subject to reporting
10 requirements of the federal Securities Exchange Act of 1934,
11 as amended; and is not registered pursuant to the federal
12 Investment Company Act of 1940, as amended, at the time of
13 the investment;

14 (e) has one hundred or fewer employees
15 calculated on a full-time-equivalent basis in the taxable
16 year in which the investment was made; and

17 (f) has not had gross revenues in
18 excess of five million dollars (\$5,000,000) in any fiscal
19 year ending on or before the date of the investment;

20 (7) "qualified investment" means a cash
21 investment in a qualified business for equity, but does not
22 include an investment by a taxpayer if the taxpayer, a member
23 of the taxpayer's immediate family or an entity affiliated
24 with the taxpayer receives compensation from the qualified
25 business in exchange for services provided to the qualified

1 business within one year of investment in the qualified
2 business; and

3 (8) "qualified research" means "qualified
4 research" as defined by Section 41 of the Internal Revenue
5 Code."

6 SECTION 2. APPLICABILITY.--The provisions of this act
7 apply to applications for an angel investment credit for
8 qualified investments made on or after January 1, 2019.=====

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