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HOUSE BILL 83

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Linda Serrato and Doreen Y. Gallegos and Dayan Hochman-Vigil  
and Meredith A. Dixon and Joshua N. Hernandez

AN ACT

RELATING TO TAXATION; EXTENDING THE AMOUNT OF TIME TO MAKE A  
QUALIFIED INVESTMENT AND BE ELIGIBLE FOR THE ANGEL INVESTMENT  
CREDIT.

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

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1 dollars (\$62,500). The tax credit provided in this section  
2 shall be known as the "angel investment credit".

3 B. A taxpayer may claim the angel investment  
4 credit:

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

7 (2) for qualified investments in no more than  
8 five qualified businesses per taxable year; and

9 (3) for a qualified investment made on or  
10 before December 31, [~~2025~~] 2030.

11 C. A taxpayer may apply for an angel investment  
12 credit by submitting a completed application to the [~~taxation~~  
13 ~~and revenue~~] department on forms and in a manner required by  
14 the department no later than one year following the end of the  
15 calendar year in which the qualified investment is made. A  
16 taxpayer shall not apply for more than one credit for the same  
17 qualified investment in the same investment round.

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

22 E. Applications and all subsequent materials  
23 submitted to the [~~taxation and revenue~~] department related to  
24 the application shall also be submitted to the economic  
25 development department.

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1           F. The [~~taxation and revenue~~] department shall  
2 allow a maximum annual aggregate of two million dollars  
3 (\$2,000,000) in angel investment credits per calendar year.  
4 Completed applications shall be considered in the order  
5 received. Applications for credits that would have been  
6 allowed but for the limit imposed by this subsection shall be  
7 allowed in subsequent calendar years.

8           G. The [~~taxation and revenue~~] department shall  
9 report annually to the revenue stabilization and tax policy  
10 committee and the legislative finance committee on the  
11 utilization and effectiveness of the angel investment credit.  
12 The report shall include, at a minimum: the number of  
13 accredited investors determined to be eligible for the credit  
14 in the previous year; the names of those investors; the amount  
15 of credit for which each investor was determined to be  
16 eligible; and the number and names of the businesses determined  
17 to be qualified businesses for purposes of an investment by an  
18 accredited investor.

19           H. A taxpayer who otherwise qualifies for and  
20 claims a credit pursuant to this section for a qualified  
21 investment made by a partnership or other business association  
22 of which the taxpayer is a member may claim a credit only in  
23 proportion to the taxpayer's interest in the partnership or  
24 business association.

25           I. Married individuals who file separate returns

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1 for a taxable year in which they could have filed a joint  
2 return may each claim one-half of the credit that would have  
3 been allowed on a joint return.

4 J. The angel investment credit may only be deducted  
5 from the taxpayer's income tax liability. Any portion of the  
6 tax credit provided by this section that remains unused at the  
7 end of the taxpayer's taxable year may be carried forward for  
8 five consecutive years.

9 K. As used in this section:

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

14 (2) "business" means a corporation, general  
15 partnership, limited partnership, limited liability company or  
16 other similar entity, but excludes an entity that is a  
17 government or a nonprofit organization designated as such by  
18 the federal government or any state;

19 (3) "equity" means common or preferred stock  
20 of a corporation, a partnership interest in a limited  
21 partnership or a membership interest in a limited liability  
22 company, including debt subject to an option in favor of the  
23 creditor to convert the debt into common or preferred stock, a  
24 partnership interest or a membership interest;

25 (4) "investment round" means an offer and sale

1 of securities and all other offers and sales of securities that  
2 would be integrated with such offer and sale of securities  
3 under Regulation D issued by the federal securities and  
4 exchange commission pursuant to the federal Securities Act of  
5 1933, as amended;

6 (5) "manufacturing" means combining or  
7 processing components or materials to increase their value for  
8 sale in the ordinary course of business, but does not include:

- 9 (a) construction;  
10 (b) farming;  
11 (c) processing natural resources,  
12 including hydrocarbons; or

13 (d) preparing meals for immediate  
14 consumption, on- or off-premises;

15 (6) "qualified business" means a business  
16 that:

17 (a) maintains its principal place of  
18 business and employs a majority of its full-time employees, if  
19 any, in New Mexico and a majority of its tangible assets, if  
20 any, are located in New Mexico;

21 (b) engages in qualified research or  
22 manufacturing activities in New Mexico;

23 (c) is not primarily engaged in or is  
24 not primarily organized as any of the following types of  
25 businesses: credit or finance services, including banks,

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1 savings and loan associations, credit unions, small loan  
2 companies or title loan companies; financial brokering or  
3 investment; professional services, including accounting, legal  
4 services, engineering and any other service the practice of  
5 which requires a license; insurance; real estate; construction  
6 or construction contracting; consulting or brokering; mining;  
7 wholesale or retail trade; providing utility service, including  
8 water, sewerage, electricity, natural gas, propane or butane;  
9 publishing, including publishing newspapers or other  
10 periodicals; broadcasting; or providing internet operating  
11 services;

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

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

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

25 (7) "qualified investment" means a cash

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1 investment in a qualified business for equity, but does not  
2 include an investment by a taxpayer if the taxpayer, a member  
3 of the taxpayer's immediate family or an entity affiliated with  
4 the taxpayer receives compensation from the qualified business  
5 in exchange for services provided to the qualified business  
6 within one year of investment in the qualified business; and

7 (8) "qualified research" means "qualified  
8 research" as defined by Section 41 of the Internal Revenue  
9 Code."

10 SECTION 2. APPLICABILITY.--The provisions of this act  
11 apply to applications for an angel investment credit for  
12 qualified investments made on or after January 1, 2024.