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SENATE BILL 59

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Timothy M. Keller

AN ACT

RELATING TO TAXATION; PROVIDING FOR A CREDIT OF GROSS RECEIPTS
TAX DUE EQUAL TO FIFTY PERCENT OF DISTRIBUTIONS MADE TO FUNDING
TECHNOLOGY COMMERCIALIZATION AND SCIENTIFIC RESEARCH.

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] CREDIT--GROSS RECEIPTS TAX--TECHNOLOGY
TRANSFER AND COMMERCIALIZATION AND SCIENTIFIC RESEARCH
FUNDING.--

A. A taxpayer may claim a credit against gross
receipts tax due in an amount equal to fifty percent of a
distribution made to:

(1) a New Mexico four-year public post-
secondary educational institution or a designated nonprofit

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1 entity of a New Mexico four-year public post-secondary
2 educational institution specifically for technology transfer
3 and commercialization or collaborative scientific research
4 purposes; or

5 (2) an eligible endowment fund or an
6 organization that promotes the commercialization of licensed
7 technology conceived in a:

8 (a) New Mexico four-year public post-
9 secondary educational institution; or

10 (b) federal scientific and engineering
11 laboratory or test facility located in New Mexico.

12 B. The purpose of the tax credit provided by this
13 section is to provide an incentive for the technology transfer
14 and commercialization industry to locate and expand in New
15 Mexico.

16 C. A taxpayer eligible for the tax credit pursuant
17 to this section may claim the amount of each tax credit by
18 crediting that amount against gross receipts taxes otherwise
19 due pursuant to the Gross Receipts and Compensating Tax Act.
20 The total amount of the tax credit shall be divided by twelve
21 and taken on each monthly gross receipts tax return filed by
22 the taxpayer against gross receipts taxes due the state for
23 twelve consecutive months after the date of contribution. In
24 no event shall the tax credits taken by an individual taxpayer
25 exceed five hundred thousand dollars (\$500,000) in a given

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1 calendar year. The department may allow a maximum annual
2 aggregate of two million dollars (\$2,000,000) in tax credits
3 provided pursuant to this section. Claims for the tax credit
4 shall be considered in the order received by the department. A
5 taxpayer who submits a claim for a tax credit and who is unable
6 to receive the tax credit because the claims exceed the annual
7 aggregate limitation in this subsection shall be placed for the
8 subsequent year ahead of the other taxpayers submitting claims
9 in the subsequent year in the order of the date on which the
10 department received the claim.

11 D. An entity that receives a distribution from a
12 taxpayer who claims a credit pursuant to this section shall
13 certify to the department the use of money, the amount of
14 distribution to the entity and the taxpayer who made the
15 contribution. The department shall administer the credit
16 provided pursuant to this section.

17 E. A taxpayer allowed a tax credit pursuant to this
18 section shall report the amount of the credit to the department
19 in a manner required by the department. The department shall
20 compile an annual report on the tax credit created pursuant to
21 this section, which report shall include the number of
22 taxpayers approved by the department to receive the tax credit,
23 the aggregate amount of credits approved and any other
24 information necessary to evaluate the effectiveness of the tax
25 credit. Beginning in 2019 and every year thereafter that the

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1 tax credit is in effect, the department shall compile and
2 present the annual reports to the revenue stabilization and tax
3 policy committee and the legislative finance committee with an
4 analysis of the effectiveness and cost of the tax credit and
5 whether the tax credit is performing the purpose for which it
6 was created.

7 F. On an annual basis starting in fiscal year 2019,
8 a New Mexico four-year public post-secondary educational
9 institution or an entity that receives a distribution from a
10 taxpayer who claims a credit pursuant to this section shall
11 report to the revenue stabilization and tax policy committee
12 and the legislative finance committee, which shall evaluate the
13 uses of and expenditures of the distribution received,
14 including:

15 (1) the number of faculty recruited and
16 retained;

17 (2) a description of any collaboration among
18 the universities and between the universities funded by the
19 taxpayer distribution and other institutions, agencies,
20 entities or persons;

21 (3) a description of current and projected
22 technology research, development and commercialization and
23 patent applications and their economic impact;

24 (4) an analysis of current and projected job
25 creation and industry incubation and growth; and

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1 (5) any other information that the legislative
2 finance committee deems appropriate or as requested by the
3 appropriate legislative interim committee.

4 G. As used in this section:

5 (1) "eligible endowment fund" means an
6 endowment fund of a New Mexico four-year public post-secondary
7 educational institution for which money in the fund is
8 primarily used to:

9 (a) develop and maintain collaboration
10 agreements with universities or federal laboratories or
11 research, development, testing and evaluating facilities to
12 facilitate the transfer and commercialization of technology
13 licensed or conceived in a New Mexico four-year public post-
14 secondary educational institution or federal scientific and
15 engineering laboratory or test facility located in New Mexico;

16 (b) promote and market federal and state
17 technology transfer and commercialization programs;

18 (c) advise, assist, promote and develop
19 business relating to technology commercialization or
20 technology-based new business; or

21 (d) develop early market demand that
22 will advance the commercialization and widespread application
23 of technology licensed or conceived in a New Mexico four-year
24 public post-secondary educational institution or federal
25 scientific and engineering laboratory or test facility located

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1 in New Mexico;

2 (2) "scientific research" means the
3 application of the scientific method to:

4 (a) examine questions posed by theories
5 and hypotheses that enable scientists to carry out a thorough
6 study and create an understanding of the world and nature as it
7 truly is;

8 (b) investigate relationships among
9 natural phenomena; or

10 (c) solve a technical problem as the
11 basis for the research portion of research and development; and

12 (3) "technology transfer and
13 commercialization" means a wide variety of procedures,
14 mechanisms or processes by which technology or knowledge
15 developed in one place or for one purpose is applied and used
16 in another for commercial use typically resulting in license
17 agreements, spinouts, start-ups, new products and services or
18 manufacturing improvements and enhanced economic development,
19 jobs creation or economic competitiveness."

20 SECTION 2. APPLICABILITY.--The provisions of this act
21 apply to distributions made on or after July 1, 2014 and apply
22 to gross receipts tax returns filed on or after August 1, 2014.

23 SECTION 3. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2014.