

HOUSE BILL 255

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

INTRODUCED BY

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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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