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SENATE BILL 211

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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and Joshua N. Hernandez and Joy Garratt

AN ACT

RELATING TO TAXATION; CREATING THE QUANTUM FACILITY
INFRASTRUCTURE INCOME TAX CREDIT AND QUANTUM FACILITY
INFRASTRUCTURE CORPORATE INCOME TAX CREDIT; PROVIDING A DELAYED
REPEAL.

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

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] QUANTUM FACILITY INFRASTRUCTURE INCOME TAX
CREDIT.--

A. For taxable years ending prior to January 1,
2035, a taxpayer who is not a dependent of another individual
and who makes at least three million dollars (\$3,000,000) in
qualified expenditures for infrastructure for a quantum
facility located in New Mexico may claim a credit against the

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1 taxpayer's tax liability imposed pursuant to the Income Tax Act
2 in the amount provided in Subsection B of this section. The
3 credit provided by this section may be referred to as the
4 "quantum facility infrastructure income tax credit".

5 B. Subject to the total aggregate amount allowed
6 pursuant to Subsection D of this section, the amount of credit
7 shall be in an amount equal to thirty percent of the amount of
8 the qualified expenditures made by the taxpayer for
9 infrastructure for a quantum facility, not to exceed fifty
10 million dollars (\$50,000,000) per quantum facility.

11 C. Prior to incurring a qualified expenditure, a
12 taxpayer shall apply for preliminary certification of
13 eligibility for the credit from the economic development
14 department on forms and in the manner prescribed by that
15 department. Such preliminary certification shall be limited to
16 confirming that the qualified expenditures proposed to be made
17 by the taxpayer will in whole or in part be used to provide
18 infrastructure for a quantum facility and an estimate of the
19 amount of credit for which the taxpayer may be eligible. Only
20 one certificate of eligibility shall be issued for a quantum
21 facility, regardless of ownership of the facility.

22 D. Within twelve months of completion of
23 construction of a quantum facility, the taxpayer shall seek
24 final certification from the economic development department.
25 The maximum aggregate amount of quantum facility infrastructure

1 income tax credits and quantum facility infrastructure
2 corporate income tax credits that may be certified shall not
3 exceed seventy-five million dollars (\$75,000,000); provided
4 that the maximum aggregate amount shall be increased to one
5 hundred fifty million dollars (\$150,000,000) in the calendar
6 year the state is awarded a United States national science
7 foundation regional innovation engines award for quantum
8 technologies. An application for final certification shall
9 include information required by the economic development
10 department to determine eligibility for the credit, including
11 information substantiating qualified expenditures. If that
12 department determines that the taxpayer meets the requirements
13 of this section, that department shall issue a dated
14 certificate of eligibility to the taxpayer providing the amount
15 of credit for which the taxpayer is eligible and the taxable
16 years in which the credit may be claimed. The economic
17 development department shall provide the department with the
18 certificates of eligibility issued pursuant to this subsection
19 in secure electronic format at regularly agreed-upon intervals.

20 E. A taxpayer allowed to claim the credit shall
21 claim the credit in a manner required by the department. The
22 credit shall be claimed within one year of receiving final
23 certification from the economic development department. The
24 taxpayer shall claim the amount certified and approved against
25 the taxpayer's income tax liability. Any amount of credit that

1 exceeds the taxpayer's income tax liability shall be refunded
2 to the taxpayer.

3 F. Married individuals filing separate returns for
4 a taxable year for which they could have filed a joint return
5 may each claim only one-half of the credit that would have been
6 claimed on a joint return.

7 G. A taxpayer may be allocated the right to claim
8 the credit in a proportion to the taxpayer's ownership interest
9 if the taxpayer owns an interest in a business entity that is
10 taxed for federal income tax purposes as a partnership or
11 limited liability company and that business entity has met all
12 of the requirements to be eligible for the credit. The total
13 credit claimed by all members of the partnership or limited
14 liability company shall not exceed the allowable credit
15 pursuant to this section.

16 H. As used in this section:

17 (1) "qualified expenditure" means an
18 expenditure made by a taxpayer for land and rent paid or
19 incurred for land, improvements, buildings or infrastructure
20 required for a quantum facility, but not including any
21 expenditure for property that is owned by a municipality or
22 county in connection with an industrial revenue bond project,
23 property for which the taxpayer has received any credit
24 pursuant to the Investment Credit Act or property that was
25 owned by the taxpayer or an affiliate before January 1, 2025.

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1 If a "qualified expenditure" is an allocation of an
2 expenditure, the cost accounting methodology used for the
3 allocation of the expenditure shall be the same cost accounting
4 methodology used by the taxpayer in its other business
5 activities;

6 (2) "quantum facility" means a facility in New
7 Mexico at which research and development in quantum technology
8 is conducted, other than a facility operated by a taxpayer for
9 the United States or any agency, department or instrumentality
10 thereof; and

11 (3) "quantum technology" means technology that
12 relies on quantum superposition or quantum entanglement or
13 innovations that enable those technologies."

14 SECTION 2. A new section of the Corporate Income and
15 Franchise Tax Act is enacted to read:

16 "[NEW MATERIAL] QUANTUM FACILITY INFRASTRUCTURE CORPORATE
17 INCOME TAX CREDIT.--

18 A. For taxable years ending prior to January 1,
19 2035, a taxpayer that makes at least three million dollars
20 (\$3,000,000) in qualified expenditures for infrastructure for a
21 quantum facility located in New Mexico may claim a credit
22 against the taxpayer's tax liability imposed pursuant to the
23 Corporate Income and Franchise Tax Act in the amount provided
24 in Subsection B of this section. The credit provided by this
25 section may be referred to as the "quantum facility

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1 infrastructure corporate income tax credit".

2 B. Subject to the total aggregate amount allowed
3 pursuant to Subsection D of this section, the amount of credit
4 shall be in an amount equal to thirty percent of the amount of
5 the qualified expenditures made by the taxpayer for
6 infrastructure for a quantum facility, not to exceed fifty
7 million dollars (\$50,000,000) per quantum facility.

8 C. Prior to incurring a qualified expenditure, a
9 taxpayer shall apply for preliminary certification of
10 eligibility for the credit from the economic development
11 department on forms and in the manner prescribed by that
12 department. Such preliminary certification shall be limited to
13 confirming that the qualified expenditures proposed to be made
14 by the taxpayer will in whole or in part be used to provide
15 infrastructure for a quantum facility and an estimate of the
16 amount of credit for which the taxpayer may be eligible. Only
17 one certificate of eligibility shall be issued for a quantum
18 facility, regardless of ownership of the facility.

19 D. Within twelve months of completion of
20 construction of a quantum facility, the taxpayer shall seek
21 final certification from the economic development department.
22 The maximum aggregate amount of quantum facility infrastructure
23 income tax credits and quantum facility infrastructure
24 corporate income tax credits that may be certified shall not
25 exceed seventy-five million dollars (\$75,000,000); provided

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1 that the maximum aggregate amount shall be increased to one
2 hundred fifty million dollars (\$150,000,000) in the calendar
3 year the state is awarded a United States national science
4 foundation regional innovation engines award for quantum
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6 include information required by the economic development
7 department to determine eligibility for the credit, including
8 information substantiating qualified expenditures. If that
9 department determines that the taxpayer meets the requirements
10 of this section, that department shall issue a dated
11 certificate of eligibility to the taxpayer providing the amount
12 of credit for which the taxpayer is eligible and the taxable
13 years in which the credit may be claimed. The economic
14 development department shall provide the department with the
15 certificates of eligibility issued pursuant to this subsection
16 in secure electronic format at regularly agreed-upon intervals.

17 E. A taxpayer allowed to claim the credit shall
18 claim the credit in a manner required by the department. The
19 credit shall be claimed within one year of receiving final
20 certification from the economic development department. The
21 taxpayer shall claim the amount certified and approved against
22 the taxpayer's income tax liability. Any amount of credit that
23 exceeds the taxpayer's income tax liability shall be refunded
24 to the taxpayer.

25 F. As used in this section:

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1 (1) "qualified expenditure" means an
2 expenditure made by a taxpayer for land and rent paid or
3 incurred for land, improvements, buildings or infrastructure
4 required for a quantum facility, but not including any
5 expenditure for property that is owned by a municipality or
6 county in connection with an industrial revenue bond project,
7 property for which the taxpayer has received any credit
8 pursuant to the Investment Credit Act or property that was
9 owned by the taxpayer or an affiliate before January 1, 2025.
10 If a "qualified expenditure" is an allocation of an
11 expenditure, the cost accounting methodology used for the
12 allocation of the expenditure shall be the same cost accounting
13 methodology used by the taxpayer in its other business
14 activities;

15 (2) "quantum facility" means a facility in New
16 Mexico at which research and development in quantum technology
17 is conducted, other than a facility operated by a taxpayer for
18 the United States or any agency, department or instrumentality
19 thereof; and

20 (3) "quantum technology" means technology that
21 relies on quantum superposition or quantum entanglement or
22 innovations that enable those technologies."

23 SECTION 3. DELAYED REPEAL.--Sections 1 and 2 of this act
24 are repealed effective January 1, 2036.

25 SECTION 4. APPLICABILITY.--The provisions of this act
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1 apply to taxable years beginning on or after January 1, 2025.

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