AN ACT

RELATING TO PUBLIC FINANCE; CREATING A GROSS RECEIPTS TAX CREDIT FOR BUSINESSES CREATING NEW HIGH-WAGE JOBS IN THE STATE.

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] HIGH-WAGE JOBS TAX CREDIT.--

A.   A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B.   The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages distributed to an eligible employee in a new high-wage

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1   economic-based job, but shall not exceed twelve thousand

2   dollars ($12,000).

3   C.   The high-wage jobs tax credit may be claimed by

4   an eligible employer for each new high-wage economic-based job

5   performed for the year in which the new high-wage economic-

6   based job is created and for the three following qualifying

7   periods.

8   D.   A new high-wage economic-based job shall not be

9   eligible for a credit pursuant to this section unless the

10   eligible employer's total number of employees with new high-

11   wage economic-based jobs on the last day of the qualifying

12   period at the location at which the job is performed or based

13   is at least one more than the number on the day prior to the

14   date the job was created.

15   E.   With respect to each new high-wage economic-

16   based job for which an eligible employer seeks the high-wage

17   jobs tax credit, the employer shall certify:

18   (1)   the amount of wages paid to each eligible

19   employee in a new high-wage economic-based job during each

20   qualifying period;

21   (2)   the number of weeks the position was

22   occupied during the qualifying period;

23   (3)   whether the new high-wage economic-based

24   job was performed or based in:

25   (a)   a municipality with a population of

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1   forty thousand or more according to the most recent federal

2   decennial census;

3   (b)   a municipality with a population of

4   less than forty thousand according to the most recent federal

5   decennial census; or

6   (c)   the unincorporated area of a county;

7   and

8   (4)   the total number of employees employed by

9   the employer at the job location on the day prior to the

10   qualifying period and on the last day of the qualifying period.

11   F.   To receive a high-wage jobs tax credit with

12   respect to any qualifying period, an eligible employer shall

13   apply to the taxation and revenue department on forms and in

14   the manner prescribed by the department.   The application shall

15   include a certification made pursuant to Subsection E of this

16   section.

17   G.   The credit provided in this section may be

18   deducted from the modified combined tax liability of a

19   taxpayer.   If the credit exceeds the modified combined tax

20   liability of the taxpayer, the excess shall be refunded to the

21   taxpayer.

22   H.   As used in this section:

23   (1)   "eligible employee" means an individual

24   who is employed by an eligible employer and who is a resident

25   of New Mexico; "eligible employee" does not include an

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1   individual who:

2   (a)   bears any of the relationships

3   described in Paragraphs (1) through (8) of 26 U.S.C. Section

4   152(a) to the employer or, if the employer is a corporation, to

5   an individual who owns, directly or indirectly, more than fifty

6   percent in value of the outstanding stock of the corporation

7   or, if the employer is an entity other than a corporation, to

8   an individual who owns, directly or indirectly, more than fifty

9   percent of the capital and profits interest in the entity;

10   (b)   if the employer is an estate or

11   trust, is a grantor, beneficiary or fiduciary of the estate or

12   trust or is an individual who bears any of the relationships

13   described in Paragraphs (1) through (8) of 26 U.S.C. Section

14   152(a) to a grantor, beneficiary or fiduciary of the estate or

15   trust;

16   (c)   is a dependent, as that term is

17   described in 26 U.S.C. Section 152(a)(9), of the employer or,

18   if the taxpayer is a corporation, of an individual who owns,

19   directly or indirectly, more than fifty percent in value of the

20   outstanding stock of the corporation or, if the employer is an

21   entity other than a corporation, of an individual who owns,

22   directly or indirectly, more than fifty percent of the capital

23   and profits interests in the entity or, if the employer is an

24   estate or trust, of a grantor, beneficiary or fiduciary of the

25   estate or trust; or

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1   (d)   is working or has worked as an

2   employee or as an independent contractor for an entity that

3   directly or indirectly owns stock in a corporation of the

4   eligible employer or other interest of the eligible employer

5   that represents fifty percent or more of the total voting power

6   of that entity or has a value equal to fifty percent or more of

7   the capital and profits interest in the entity;

8   (2)   "eligible employer" means an employer

9   that:

10   (a)   made more than fifty percent of its

11   sales to persons outside New Mexico during the most recent

12   twelve months of the employer's modified combined tax liability

13   reporting periods ending prior to claiming a high-wage jobs tax

14   credit; and

15   (b)   is eligible for training assistance

16   pursuant to Section 21-19-7 NMSA 1978;

17   (3)   "modified combined tax liability" means

18   the total liability for the reporting period for the gross

19   receipts tax imposed by Section 7-9-4 NMSA 1978 together with

20   any tax collected at the same time and in the same manner as

21   the gross receipts tax, including the compensating tax,

22   withholding tax, interstate telecommunications gross receipts

23   tax, surcharges imposed by Section 63-9D-5 NMSA 1978 and the

24   surcharge imposed by Section 63-9F-11 NMSA 1978, minus the

25   amount of any credit other than the high-wage jobs tax credit

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1 applied against any or all of these taxes or surcharges; but

2 "modified combined tax liability" excludes all amounts

3 collected with respect to local option gross receipts taxes;

4 (4) "new high-wage economic-based job" means a

5 job created by an eligible employer on or after July 1, 2004

6 and prior to July 1, 2009 that is occupied for at least forty-

7 eight weeks of a qualifying period by an eligible employee who

8 is paid wages calculated for the qualifying period to be at

9 least:

10 (a) forty thousand dollars ($40,000) if

11 the job is performed or based in a municipality with a

12 population of forty thousand or more according to the most

13 recent federal decennial census; and

14 (b) twenty-eight thousand dollars

15 ($28,000) if the job is performed or based in a municipality

16 with a population of less than forty thousand according to the

17 most recent federal decennial census or in the unincorporated

18 area of a county;

19 (5) "qualifying period" means the period of

20 twelve months beginning on the day an eligible employee begins

21 working in a new high-wage economic-based job or the period of

22 twelve months beginning on the anniversary of the day an

23 eligible employee began working in a new high-wage economic-

24 based job; and

25 (6) "wages" means wages as defined in

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1   Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

2   Section 2.   EFFECTIVE DATE.--The effective date of the

3   provisions of this act is July 1, 2004.

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