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SENATE BILL 28

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Roman M. Maes III

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE

AN ACT

RELATING TO TAXATION; CREATING THE HIGH-WAGE JOBS TAX CREDIT.

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

Section 1. TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

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 and benefits distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000).

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

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1 an eligible employer for each new high-wage economic-based job
2 performed for the year in which the new high-wage economic-
3 based job is created and for the three following qualifying
4 periods.

5 D. A new high-wage economic-based job shall not be
6 eligible for a credit pursuant to this section unless the
7 eligible employer's total number of employees with new high-
8 wage economic-based jobs on the last day of the qualifying
9 period at the location at which the job is performed or based
10 is at least one more than the number on the day prior to the
11 date the job was created.

12 E. With respect to each new high-wage economic-
13 based job for which an eligible employer seeks the high-wage
14 jobs tax credit, the employer shall certify:

15 (1) the amount of wages paid to each eligible
16 employee in a new high-wage economic-based job during each
17 qualifying period;

18 (2) the number of weeks the position was
19 occupied during the qualifying period;

20 (3) whether the new high-wage economic-based
21 job was in a municipality with a population of forty thousand
22 or more or with a population of less than forty thousand
23 according to the most recent federal decennial census and
24 whether the job was in the unincorporated area of a county; and

25 (4) the total number of employees employed by

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1 the employer at the job location on the day prior to the
2 qualifying period and on the last day of the qualifying period.

3 F. To receive a high-wage jobs tax credit with
4 respect to any qualifying period, an eligible employer shall
5 apply to the taxation and revenue department on forms and in
6 the manner prescribed by the department. The application shall
7 include a certification made pursuant to Subsection E of this
8 section.

9 G. The credit provided in this section may be
10 deducted from the modified combined tax liability of a
11 taxpayer. If the credit exceeds the modified combined tax
12 liability of the taxpayer, the excess shall be refunded to the
13 taxpayer.

14 H. As used in this section:

15 (1) "eligible employee" means an individual
16 who is employed by an eligible employer and who is a resident
17 of New Mexico; "eligible employee" does not include an
18 individual who:

19 (a) bears any of the relationships
20 described in Paragraphs (1) through (8) of 26 U. S. C. Section
21 152(a) to the employer or, if the employer is a corporation, to
22 an individual who owns, directly or indirectly, more than fifty
23 percent in value of the outstanding stock of the corporation
24 or, if the employer is an entity other than a corporation, to
25 an individual who owns, directly or indirectly, more than fifty

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

2 (b) if the employer is an estate or
3 trust, is a grantor, beneficiary or fiduciary of the estate or
4 trust or is an individual who bears any of the relationships
5 described in Paragraphs (1) through (8) of 26 U. S. C. Section
6 152(a) to a grantor, beneficiary or fiduciary of the estate or
7 trust; or

8 (c) is a dependent, as that term is
9 described in 26 U. S. C. Section 152(a)(9), of the employer or,
10 if the taxpayer is a corporation, of an individual who owns,
11 directly or indirectly, more than fifty percent in value of the
12 outstanding stock of the corporation or, if the employer is an
13 entity other than a corporation, of an individual who owns,
14 directly or indirectly, more than fifty percent of the capital
15 and profits interests in the entity or, if the employer is an
16 estate or trust, of a grantor, beneficiary or fiduciary of the
17 estate or trust;

18 (2) "eligible employer" means an employer
19 that:

20 (a) made more than fifty percent of its
21 sales to persons outside New Mexico during the most recent
22 twelve months of the employer's modified combined tax liability
23 reporting periods ending prior to claiming a high-wage jobs tax
24 credit; and

25 (b) is eligible for in-plant training

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1 assistance pursuant to Section 21-19-7 NMSA 1978;

2 (3) "modified combined tax liability" means
3 the total liability for the reporting period for the gross
4 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
5 any tax collected at the same time and in the same manner as
6 the gross receipts tax, such as the compensating tax, the
7 withholding tax, the interstate telecommunications gross
8 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
9 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
10 minus the amount of any credit other than the high-wage jobs
11 tax credit applied against any or all of these taxes or
12 surcharges; but "modified combined tax liability" excludes all
13 amounts collected with respect to local option gross receipts
14 taxes;

15 (4) "new high-wage economic-based job" means a
16 job created by an eligible employer on or after July 1, 2004
17 and prior to July 1, 2009 that is occupied for at least forty-
18 eight weeks of a qualifying period by an eligible employee who
19 is paid wages calculated for the qualifying period to be at
20 least:

21 (a) forty thousand dollars (\$40,000) if
22 the job is performed or based in a municipality with a
23 population of forty thousand or more according to the most
24 recent federal decennial census; and

25 (b) twenty-eight thousand dollars

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1 (\$28,000) if the job is performed or based in a municipality
2 with a population of less than forty thousand according to the
3 most recent federal decennial census or in the unincorporated
4 area of a county;

5 (5) "qualifying period" means the period of
6 twelve months beginning on the day an eligible employee begins
7 working in a new high-wage economic-based job or the period of
8 twelve months beginning on the anniversary of the day an
9 eligible employee began working in a new high-wage economic-
10 based job; and

11 (6) "wages" means wages as defined in
12 Paragraphs (1), (2) and (3) of 26 U. S. C. Section 51(c).