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SENATE BILL 495

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Carlos R. Cisneros

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING THE RURAL JOB TAX CREDIT;  
DECLARING AN EMERGENCY.

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

Section 1. A new Section 7-2E-1.1 NMSA 1978 is enacted to  
read:

"7-2E-1.1. [NEW MATERIAL] TAX CREDIT--RURAL JOB TAX  
CREDIT.--

A. The tax credit created by this section may be  
referred to as the "rural job tax credit". Every eligible  
employer may apply for, and the taxation and revenue department  
may allow, a tax credit for each qualifying job the employer  
creates. The maximum tax credit amount with respect to each  
qualifying job is equal to:

- (1) twenty-five percent of the first sixteen

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1 thousand dollars (\$16,000) in wages paid for the qualifying job  
2 if the job is performed or based at a location in a tier one  
3 area; or

4 (2) twelve and one-half percent of the first  
5 sixteen thousand dollars (\$16,000) in wages paid if the  
6 qualifying job is performed or based at a location in a tier  
7 two area.

8 B. The amount of the rural job tax credit shall be  
9 six and one-fourth percent of the first sixteen thousand  
10 dollars (\$16,000) in wages paid for the qualifying job in a  
11 qualifying period. The rural job tax credit may be claimed for  
12 each qualifying job for a maximum of:

13 (1) four qualifying periods for each  
14 qualifying job performed or based at a location in a tier one  
15 area; and

16 (2) two qualifying periods for each qualifying  
17 job performed or based at a location in a tier two area.

18 C. With respect to each qualifying job for which an  
19 eligible employer seeks the rural job tax credit, the employer  
20 shall certify the amount of wages paid to each eligible  
21 employee during each qualifying period, the number of weeks  
22 during the qualifying period the position was occupied and  
23 whether the qualifying job was in a tier one or tier two area.

24 D. The economic development department shall  
25 determine which employers are eligible employers and shall

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1 report the listing of eligible businesses to the taxation and  
2 revenue department in a manner and at times the departments  
3 shall agree upon.

4 E. To receive a rural job tax credit with respect  
5 to any qualifying period, an eligible employer must apply to  
6 the taxation and revenue department on forms and in the manner  
7 the department may prescribe. The application shall include a  
8 certification made pursuant to Subsection C of this section.

9 If all the requirements of this section have been complied  
10 with, the taxation and revenue department may issue to the  
11 applicant a document granting a tax credit for the appropriate  
12 qualifying period. The tax credit document shall be numbered  
13 for identification and declare its date of issuance and the  
14 amount of rural job tax credit allowed for the respective jobs  
15 created. The tax credit documents may be sold, exchanged or  
16 otherwise transferred and may be carried forward for a period  
17 of three years from the date of issuance. The parties to such  
18 a transaction to sell, exchange or transfer a rural job tax  
19 credit document shall notify the department of the transaction  
20 within ten days of the sale, exchange or transfer.

21 F. The holder of the tax credit document may apply  
22 all or a portion of the rural job tax credit granted by the  
23 document against the holder's modified combined tax liability,  
24 personal income tax liability or corporate income tax  
25 liability. Any balance of rural job tax credit granted by the

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1 document may be carried forward for up to three years from the  
2 date of issuance of the tax credit document. No amount of  
3 rural job tax credit may be applied against a gross receipts  
4 tax imposed by a municipality or county.

5 G. Notwithstanding the provisions of Section 7-1-8  
6 NMSA 1978, the taxation and revenue department may disclose to  
7 any person the balance of rural job tax credit remaining on any  
8 tax credit document and the balance of credit remaining on that  
9 document for any period.

10 H. The secretary of economic development, the  
11 secretary of taxation and revenue and the secretary of labor or  
12 their designees shall annually evaluate the effectiveness of  
13 the rural job tax credit in stimulating economic development in  
14 the rural areas of New Mexico and make a joint report of their  
15 findings to each session of the legislature so long as the  
16 rural job tax credit is in effect.

17 I. An eligible employer that creates a qualifying  
18 job in the period beginning on or after July 1, 2006 but before  
19 July 1, 2007 or creates a qualifying job, the qualifying period  
20 of which includes a part of the period between July 1, 2006 and  
21 July 1, 2007, for which the eligible employer has not received  
22 a rural job tax credit document pursuant to this section may  
23 submit an application for, and the department may issue to the  
24 eligible employer applying, a document granting a tax credit  
25 for the appropriate qualifying period. Claims for a rural job

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1 tax credit submitted pursuant to the provisions of this  
2 subsection shall be submitted within three years from the date  
3 of issuance of the rural job tax credit document.

4 J. As used in this section:

5 (1) "eligible employee" means any individual  
6 other than an individual who:

7 (a) bears any of the relationships  
8 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
9 152(a) to the employer or, if the employer is a corporation, to  
10 an individual who owns, directly or indirectly, more than fifty  
11 percent in value of the outstanding stock of the corporation  
12 or, if the employer is an entity other than a corporation, to  
13 any individual who owns, directly or indirectly, more than  
14 fifty percent of the capital and profits interests in the  
15 entity;

16 (b) if the employer is an estate or  
17 trust, is a grantor, beneficiary or fiduciary of the estate or  
18 trust or is an individual who bears any of the relationships  
19 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
20 152(a) to a grantor, beneficiary or fiduciary of the estate or  
21 trust; or

22 (c) is a dependent, as that term is  
23 described in 26 U.S.C. Section 152(a)(9), of the employer or,  
24 if the taxpayer is a corporation, of an individual who owns,  
25 directly or indirectly, more than fifty percent in value of the

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1 outstanding stock of the corporation or, if the employer is an  
2 entity other than a corporation, of any individual who owns,  
3 directly or indirectly, more than fifty percent of the capital  
4 and profits interests in the entity or, if the employer is an  
5 estate or trust, of a grantor, beneficiary or fiduciary of the  
6 estate or trust;

7 (2) "eligible employer" means an employer  
8 who has been approved for in-plant training assistance pursuant  
9 to Section 21-19-7 NMSA 1978;

10 (3) "metropolitan statistical area" means a  
11 metropolitan statistical area in New Mexico as determined by  
12 the United States bureau of the census;

13 (4) "modified combined tax liability" means  
14 the total liability for the reporting period for the gross  
15 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
16 any tax collected at the same time and in the same manner as  
17 that gross receipts tax, such as the compensating tax, the  
18 withholding tax, the interstate telecommunications gross  
19 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
20 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
21 minus the amount of any credit other than the rural job tax  
22 credit applied against any or all of these taxes or surcharges;  
23 but "modified combined tax liability" excludes all amounts  
24 collected with respect to local option gross receipts taxes;

25 (5) "qualifying job" means a job established

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1 by the employer that is occupied by an eligible employee for at  
2 least forty-eight weeks of a qualifying period;

3 (6) "qualifying period" means the period of  
4 twelve months beginning on the day an eligible employee begins  
5 working in a qualifying job or the period of twelve months  
6 beginning on the anniversary of the day an eligible employee  
7 began working in a qualifying job;

8 (7) "rural area" means any part of the state  
9 other than:

- 10 (a) an H class county;
- 11 (b) the state fairgrounds;
- 12 (c) an incorporated municipality within  
13 a metropolitan statistical area if the municipality's  
14 population is thirty thousand or more according to the most  
15 recent federal decennial census; and
- 16 (d) any area within ten miles of the  
17 exterior boundaries of a municipality described in Subparagraph  
18 (c) of this paragraph;

- 19 (8) "tier one area" means:
- 20 (a) any municipality within the rural  
21 area if the municipality's population according to the most  
22 recent federal decennial census is fifteen thousand or less; or
- 23 (b) any part of the rural area that is  
24 not within the exterior boundaries of a municipality;

25 (9) "tier two area" means any municipality

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1 within the rural area if the municipality's population  
2 according to the most recent federal decennial census is more  
3 than fifteen thousand; and

4 (10) "wages" means wages as defined by  
5 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

6 Section 2. CONTINUED APPLICABILITY OF RURAL JOB TAX  
7 CREDIT.--The balance of a rural job tax credit granted by and  
8 remaining on a tax credit document issued prior to July 1, 2006  
9 may be applied after that date in the manner provided in  
10 Section 1 of this act against a holder's modified combined tax  
11 liability or personal income tax or corporate income tax  
12 liability.

13 Section 3. APPLICABILITY.--The provisions of this act  
14 apply to tax returns filed on or after the effective date of  
15 this act:

16 A. for rural job tax credit claims against a  
17 taxpayer's modified combined tax liability, for qualified jobs  
18 created in the calendar quarters beginning on or after July 1,  
19 2006; and

20 B. for rural job tax credit claims against a  
21 taxpayer's personal income tax liability or corporate income  
22 tax liability, for qualified jobs created in taxable years  
23 beginning on or after January 1, 2006.

24 Section 4. EMERGENCY.--It is necessary for the public  
25 peace, health and safety that this act take effect immediately.

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