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AN ACT

RELATING TO TAXATION; CLARIFYING THE APPLICATION OF THE RURAL  
JOB TAX CREDIT; PROVIDING A PURPOSE FOR THE RURAL JOB TAX  
CREDIT; DEFINING "WAGES".

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

SECTION 1. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,  
Chapter 172, Section 2) is amended to read:

"7-2E-1.1. 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 thousand dollars (\$16,000) in wages paid for the qualifying job if the job is performed or based at a location in a tier one area; or

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

B. The purpose of the rural job tax credit is to encourage businesses to start new businesses in rural areas

1 of the state.

2 C. The amount of the rural job tax credit shall be  
3 six and one-fourth percent of the first sixteen thousand  
4 dollars (\$16,000) in wages paid for the qualifying job in a  
5 qualifying period. The rural job tax credit may be claimed  
6 for each qualifying job for a maximum of:

7 (1) four qualifying periods for each  
8 qualifying job performed or based at a location in a tier one  
9 area; and

10 (2) two qualifying periods for each  
11 qualifying job performed or based at a location in a tier two  
12 area.

13 D. With respect to each qualifying job for which  
14 an eligible employer seeks the rural job tax credit, the  
15 employer shall certify the amount of wages paid to each  
16 eligible employee during each qualifying period, the number  
17 of weeks during the qualifying period the position was  
18 occupied and whether the qualifying job was in a tier one or  
19 tier two area.

20 E. The economic development department shall  
21 determine which employers are eligible employers and shall  
22 report the listing of eligible businesses to the taxation and  
23 revenue department in a manner and at times the departments  
24 shall agree upon.

25 F. To receive a rural job tax credit with respect

1 to any qualifying period, an eligible employer must apply to  
2 the taxation and revenue department on forms and in the  
3 manner the department may prescribe. The application shall  
4 include a certification made pursuant to Subsection D of this  
5 section. If all the requirements of this section have been  
6 complied with, the taxation and revenue department may issue  
7 to the applicant a document granting a tax credit for the  
8 appropriate qualifying period. The tax credit document shall  
9 be numbered for identification and declare its date of  
10 issuance and the amount of rural job tax credit allowed for  
11 the respective jobs created. The tax credit documents may be  
12 sold, exchanged or otherwise transferred and may be carried  
13 forward for a period of three years from the date of  
14 issuance. The parties to such a transaction to sell,  
15 exchange or transfer a rural job tax credit document shall  
16 notify the department of the transaction within ten days of  
17 the sale, exchange or transfer.

18 G. The holder of the tax credit document may apply  
19 all or a portion of the rural job tax credit granted by the  
20 document against the holder's modified combined tax  
21 liability, personal income tax liability or corporate income  
22 tax liability. Any balance of rural job tax credit granted  
23 by the document may be carried forward for up to three years  
24 from the date of issuance of the tax credit document. No  
25 amount of rural job tax credit may be applied against a gross

1 receipts tax imposed by a municipality or county.

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

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

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

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

3 K. A qualifying job shall not be eligible for a  
4 rural job credit pursuant to this section if:

5 (1) the job is created due to a business  
6 merger, acquisition or other change in organization;

7 (2) the eligible employee was terminated  
8 from employment in New Mexico by another employer involved in  
9 the merger, acquisition or other change in organization; and

10 (3) the job is performed by:

11 (a) the person who performed the job or  
12 its functional equivalent prior to the business merger,  
13 acquisition or other change in organization; or

14 (b) a person replacing the person who  
15 performed the job or its functional equivalent prior to the  
16 business merger, acquisition or other change in organization.

17 L. Notwithstanding Subsection K of this section, a  
18 qualifying job that was created by another employer and for  
19 which the rural job tax credit claim was received by the  
20 taxation and revenue department prior to July 1, 2013 and is  
21 under review or has been approved shall remain eligible for  
22 the rural job tax credit for the balance of the qualifying  
23 periods for which the job qualifies by the new employer that  
24 results from a business merger, acquisition or other change  
25 in the organization.

1 M. A job shall not be eligible for a rural job tax  
2 credit pursuant to this section if the job is created due to  
3 an eligible employer entering into a contract or becoming a  
4 subcontractor to a contract with a governmental entity that  
5 replaces one or more entities performing functionally  
6 equivalent services for the governmental entity in New Mexico  
7 unless the job is a qualifying job that was not being  
8 performed by an employee of the replaced entity.

9 N. As used in this section:

10 (1) "eligible employee" means any individual  
11 other than an individual who:

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

21 (b) if the employer is an estate or  
22 trust, is a grantor, beneficiary or fiduciary of the estate  
23 or trust or is an individual who bears any of the  
24 relationships described in Paragraphs (1) through (8) of 26  
25 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary

1 of the estate or trust; or

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

12 (2) "eligible employer" means an employer  
13 who is eligible for in-plant training assistance pursuant to  
14 Section 21-19-7 NMSA 1978;

15 (3) "metropolitan statistical area" means a  
16 metropolitan statistical area in New Mexico as determined by  
17 the United States bureau of the census;

18 (4) "modified combined tax liability" means  
19 the total liability for the reporting period for the gross  
20 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
21 any tax collected at the same time and in the same manner as  
22 that gross receipts tax, such as the compensating tax, the  
23 withholding tax, the interstate telecommunications gross  
24 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
25 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,

1 minus the amount of any credit other than the rural job tax  
2 credit applied against any or all of these taxes or  
3 surcharges; but "modified combined tax liability" excludes  
4 all amounts collected with respect to local option gross  
5 receipts taxes;

6 (5) "qualifying job" means a job established  
7 by the employer that is occupied by an eligible employee for  
8 at least forty-eight weeks of a qualifying period;

9 (6) "qualifying period" means the period of  
10 twelve months beginning on the day an eligible employee  
11 begins working in a qualifying job or the period of twelve  
12 months beginning on the anniversary of the day an eligible  
13 employee began working in a qualifying job;

14 (7) "rural area" means any part of the state  
15 other than:

16 (a) an H class county;

17 (b) the state fairgrounds;

18 (c) an incorporated municipality within  
19 a metropolitan statistical area if the municipality's  
20 population is thirty thousand or more according to the most  
21 recent federal decennial census; and

22 (d) any area within ten miles of the  
23 exterior boundaries of a municipality described in  
24 Subparagraph (c) of this paragraph;

25 (8) "tier one area" means:



1 (a) any municipality within the rural  
2 area if the municipality's population according to the most  
3 recent federal decennial census is fifteen thousand or less;  
4 or

5 (b) any part of the rural area that is  
6 not within the exterior boundaries of a municipality;

7 (9) "tier two area" means any municipality  
8 within the rural area if the municipality's population  
9 according to the most recent federal decennial census is more  
10 than fifteen thousand; and

11 (10) "wages" means all compensation paid by  
12 an eligible employer to an eligible employee through the  
13 employer's payroll system, including those wages the employee  
14 elects to defer or redirect, such as the employee's  
15 contribution to 401(k) or cafeteria plan programs, but not  
16 including benefits or the employer's share of payroll taxes."

17 SECTION 2. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2013. \_\_\_\_\_