

1 HOUSE BILL 337

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 James R.J. Strickler

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9  
10 AN ACT

11 RELATING TO TAXATION; CREATING THE RURAL INFRASTRUCTURE TAX  
12 CREDIT.

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

15 SECTION 1. A new section of Chapter 7 NMSA 1978 is  
16 enacted to read:

17 "[NEW MATERIAL] RURAL INFRASTRUCTURE TAX CREDIT.--

18 A. Prior to January 1, 2021, a taxpayer who makes a  
19 qualified investment that is likely to produce quantifiable  
20 benefits may claim a tax credit in an amount not to exceed  
21 thirty percent of the cost of the qualified investment against  
22 the taxpayer's modified combined tax liability or the  
23 taxpayer's tax liability pursuant to the provisions of the  
24 Income Tax Act and the Corporate Income and Franchise Tax Act;  
25 provided that the amount of the credit associated with the

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1 purchase of land or fixed assets shall not exceed fifty percent  
2 of the amount of the credit associated with the cost of  
3 construction of one or more buildings. The tax credit provided  
4 by this section may be referred to as the "rural infrastructure  
5 tax credit".

6 B. The purposes of the rural infrastructure tax  
7 credit are to:

8 (1) stimulate economic development by  
9 providing gap funding for manufacturers, processors and natural  
10 resource extractors to build infrastructure;

11 (2) encourage private investment in  
12 manufacturing facilities;

13 (3) give rural communities an advantage in  
14 attracting investment by private industry; and

15 (4) promote job creation.

16 C. A taxpayer may claim a rural infrastructure tax  
17 credit in an amount not to exceed one million dollars  
18 (\$1,000,000) per qualified investment for not more than three  
19 qualified investments in a taxable year. A taxpayer shall  
20 claim the rural infrastructure tax credit no later than one  
21 year following the end of the calendar year in which the  
22 taxpayer receives a certificate of eligibility pursuant to  
23 Subsection D of this section.

24 D. A taxpayer may apply for certification of  
25 eligibility for the rural infrastructure tax credit from the

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1 authority. The authority shall consider for certification  
2 completed applications in the order received. If the authority  
3 determines that the project is a qualified investment that is  
4 likely to produce quantifiable benefits, it shall issue a  
5 certificate of eligibility to the taxpayer, subject to the  
6 limitation in Subsection E of this section. The certificate  
7 shall be dated and shall include a calculation of the amount of  
8 the rural infrastructure tax credit for which the taxpayer is  
9 eligible. The authority may issue rules governing the  
10 procedure for administering the provisions of this subsection.

11 E. The authority may issue a certificate of  
12 eligibility pursuant to Subsection D of this section only if  
13 the total amount of rural infrastructure tax credits  
14 represented by those certificates in any calendar year does not  
15 exceed ten million dollars (\$10,000,000). If the applications  
16 for certificates for rural infrastructure tax credits represent  
17 an aggregate amount exceeding ten million dollars (\$10,000,000)  
18 for any calendar year, certificates shall be issued in the  
19 order that the completed applications were received. The  
20 excess applications that would have been certified, but for the  
21 limit imposed by this subsection, shall be certified, subject  
22 to the same limit, in subsequent calendar years.

23 F. To claim the rural infrastructure tax credit, a  
24 taxpayer shall provide to the department a certificate of  
25 eligibility issued by the authority pursuant to Subsection D of

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1 this section and any other information that the department may  
2 require to determine the amount of the tax credit due the  
3 taxpayer. If the requirements of this section have been  
4 complied with, the department shall approve the claim for the  
5 credit.

6 G. To receive a rural infrastructure tax credit, a  
7 taxpayer shall apply to the department on forms and in the  
8 manner prescribed by the department. The application shall  
9 include a certification made pursuant to Subsection D of this  
10 section. If the requirements of this section have been  
11 complied with, the department shall issue to the taxpayer a  
12 document granting the tax credit. The document shall be  
13 numbered for identification and shall declare its date of  
14 issuance and the amount of the tax credit allowed pursuant to  
15 this section. The document may be submitted by the applicant  
16 with that taxpayer's tax return or may be sold, exchanged or  
17 otherwise transferred to another taxpayer. The parties to such  
18 a transaction shall notify the department of the sale, exchange  
19 or transfer within ten days of the sale, exchange or transfer.

20 H. That portion of a rural infrastructure tax  
21 credit that exceeds a taxpayer's tax liability in the taxable  
22 period in which the credit is claimed may be carried forward  
23 for a maximum of ten consecutive taxable years.

24 I. Married individuals filing separate returns for  
25 a taxable year for which they could have filed a joint return

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1 may each claim only one-half of the rural infrastructure tax  
2 credit that would have been claimed on a joint return.

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

12 K. If the department determines that the qualified  
13 investment is not substantially complete within twelve months  
14 from the date that a certificate of eligibility was issued, the  
15 department shall timely notify the taxpayer of that  
16 determination. The taxpayer may request an extension of time  
17 in which to complete the project, and the department, if it  
18 determines that meaningful and measurable progress toward  
19 project completion is being made, may grant a six-month  
20 extension. A taxpayer may request, and the department may  
21 grant, more than one extension. If no request is made or if  
22 the department determines that meaningful and measurable  
23 progress toward project completion has not been made, the  
24 department shall:

25 (1) if the taxpayer has not claimed the rural

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1 infrastructure tax credit, extinguish the credit; and

2 (2) if the taxpayer has claimed the rural  
3 infrastructure tax credit, deem any taxes to which the tax  
4 credit was applied as unpaid and extinguish the remainder of  
5 the unclaimed tax credit, if any.

6 L. The authority and the department shall compile  
7 an annual report on the rural infrastructure tax credit that  
8 shall include the number of certificates of eligibility that  
9 the authority issued in the previous year, the number of  
10 taxpayers approved by the department to receive the tax credit,  
11 the aggregate amount of tax credits approved and any other  
12 information necessary to evaluate the effectiveness of the tax  
13 credit. Before December 1 of each year, the department shall  
14 compile and present the annual report to the revenue  
15 stabilization and tax policy committee and the legislative  
16 finance committee with an analysis of the effectiveness and  
17 cost of the tax credit and whether the tax credit is performing  
18 the purpose for which it was created.

19 M. As used in this section:

20 (1) "authority" means the New Mexico finance  
21 authority;

22 (2) "department" means the taxation and  
23 revenue department;

24 (3) "modified combined tax liability" means  
25 the total liability for the reporting period for the gross

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1 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
2 any tax collected at the same time and in the same manner as  
3 that gross receipts tax, such as the compensating tax, the  
4 withholding tax, the interstate telecommunications gross  
5 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
6 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
7 minus the amount of any credit other than the rural job tax  
8 credit applied against any or all of these taxes or surcharges;  
9 but "modified combined tax liability" excludes all amounts  
10 collected with respect to local option gross receipts taxes;

11 (4) "qualified institution" means a state-  
12 chartered financial institution or a nationally chartered  
13 financial institution;

14 (5) "qualified investment" means an investment  
15 of at least one million dollars (\$1,000,000) in a commercial  
16 enterprise project:

17 (a) that is located in a county that is  
18 not a class A county;

19 (b) whose purpose is to: 1) manufacture  
20 goods for sale; 2) extract natural resources for sale; or 3)  
21 process raw materials for sale;

22 (c) that includes the construction of at  
23 least one building or the construction of at least one building  
24 and the purchase of land or fixed assets, or both;

25 (d) that is not functionally related or

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1 subordinate to another project that has received or will  
2 receive a rural infrastructure tax credit; and

3 (e) for which a loan from a qualified  
4 institution has closed; and

5 (6) "quantifiable benefits" means economic  
6 development as measured by a variety of factors, including  
7 increased local hiring, job training, direct and indirect job  
8 creation, increased gross receipts tax collection, increased  
9 occupancy tax collection, increased property tax collection,  
10 increased state corporate and personal income tax collection  
11 and increased other fee and revenue collections."

12 SECTION 2. APPLICABILITY.--The provisions of this act  
13 apply to taxable years beginning on or after January 1, 2015.