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HOUSE BILL 108

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

James R.J. Strickler

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE AND
THE JOBS COUNCIL

AN ACT

RELATING TO TAXATION; CREATING THE RURAL INFRASTRUCTURE TAX
CREDIT.

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

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

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

A. Prior to January 1, 2022, a taxpayer who makes a
qualified investment that is likely to produce quantifiable
benefits may claim a tax credit in an amount not to exceed
thirty percent of the cost of the qualified investment against
the taxpayer's modified combined tax liability or the
taxpayer's tax liability pursuant to the provisions of the
Income Tax Act and the Corporate Income and Franchise Tax Act;
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) not located in, or within ten miles
18 of, a municipality with a population that is equal to or
19 greater than fifty-five thousand as of the most recent federal
20 decennial census;

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

24 (c) that includes the construction of at
25 least one building or the construction of at least one building

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and the purchase of land or fixed assets, or both;

(d) that is not functionally related or subordinate to another project that has received or will receive a rural infrastructure tax credit; and

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

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

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2016.