

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 275

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO TAXATION; REDUCING THE AMOUNT OF TIME THE TAXATION
AND REVENUE DEPARTMENT SHALL MAKE A DETERMINATION ON AN
APPLICATION FOR A HIGH-WAGE JOBS TAX CREDIT TO BE IN LINE WITH
OTHER TAX CREDITS; AMENDING A DEFINITION APPLICABLE TO THE
CREDIT.

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

SECTION 1. Section 7-9G-1 NMSA 1978 (being Laws 2004,
Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
JOBS.--

A. A taxpayer that is an eligible employer may
apply for, and the department may allow, a tax credit for each
new high-wage job. The credit provided in this section may be
referred to as the "high-wage jobs tax credit".

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underscored material = new
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1 B. The purpose of the high-wage jobs tax credit is
2 to provide an incentive for urban and rural businesses to
3 create and fill new high-wage jobs in New Mexico.

4 C. The high-wage jobs tax credit may be claimed and
5 allowed in an amount equal to eight and one-half percent of the
6 wages distributed to an eligible employee in a new high-wage
7 job but shall not exceed twelve thousand seven hundred fifty
8 dollars (\$12,750) per job per qualifying period. The high-wage
9 jobs tax credit may be claimed by an eligible employer for each
10 new high-wage job performed for the year in which the new high-
11 wage job is created and for consecutive qualifying periods.

12 D. To receive a high-wage jobs tax credit, a
13 taxpayer shall file an application for approval of the credit
14 with the department once per calendar year on forms and in the
15 manner prescribed by the department. The annual application
16 shall contain the certification required by Subsection K of
17 this section and shall contain all qualifying periods that
18 closed during the calendar year for which the application is
19 made. Any qualifying period that did not close in the calendar
20 year for which the application is made shall be denied by the
21 department. The application for a calendar year shall be filed
22 no later than December 31 of the following calendar year. If a
23 taxpayer fails to file the annual application within the time
24 limits provided in this section, the application shall be
25 denied by the department. ~~[The department shall make a~~

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1 ~~determination on the application within one hundred eighty days~~
2 ~~of the date on which the application was filed.]~~

3 E. A new high-wage job shall not be eligible for a
4 credit pursuant to this section for the initial qualifying
5 period unless the eligible employer's total number of employees
6 with threshold jobs on the last day of the initial qualifying
7 period at the location at which the job is performed or based
8 is at least one more than the number of threshold jobs on the
9 day prior to the date the new high-wage job was created. A new
10 high-wage job shall not be eligible for a credit pursuant to
11 this section for a consecutive qualifying period unless the
12 total number of threshold jobs at a location at which the job
13 is performed or based on the last day of that qualifying period
14 is greater than or equal to the number of threshold jobs at
15 that same location on the last day of the initial qualifying
16 period for the new high-wage job.

17 F. If a consecutive qualifying period for a new
18 high-wage job does not meet the wage, occupancy and residency
19 requirements, then the qualifying period is ineligible.

20 G. Except as provided in Subsection H of this
21 section, a new high-wage job shall not be eligible for a credit
22 pursuant to this section if:

23 (1) the new high-wage job is created due to a
24 business merger or acquisition or other change in business
25 organization;

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1 (2) the eligible employee was terminated from
2 employment in New Mexico by another employer involved in the
3 business merger or acquisition or other change in business
4 organization with the taxpayer; and

5 (3) the new high-wage job is performed by:

6 (a) the person who performed the job or
7 its functional equivalent prior to the business merger or
8 acquisition or other change in business organization; or

9 (b) a person replacing the person who
10 performed the job or its functional equivalent prior to a
11 business merger or acquisition or other change in business
12 organization.

13 H. A new high-wage job that was created by another
14 employer and for which an application for the high-wage jobs
15 tax credit was received and is under review by the department
16 prior to the time of the business merger or acquisition or
17 other change in business organization shall remain eligible for
18 the high-wage jobs tax credit for the balance of the
19 consecutive qualifying periods. The new employer that results
20 from a business merger or acquisition or other change in
21 business organization may only claim the high-wage jobs tax
22 credit for the balance of the consecutive qualifying periods
23 for which the new high-wage job is otherwise eligible.

24 I. A new high-wage job shall not be eligible for a
25 credit pursuant to this section if the job is created due to an

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1 eligible employer entering into a contract or becoming a
2 subcontractor to a contract with a governmental entity that
3 replaces one or more entities performing functionally
4 equivalent services for the governmental entity unless the job
5 is a new high-wage job that was not being performed by an
6 employee of the replaced entity.

7 J. A new high-wage job shall not be eligible for a
8 credit pursuant to this section if the eligible employer has
9 more than one business location in New Mexico from which it
10 conducts business and the requirements of Subsection E of this
11 section are satisfied solely by moving the job from one
12 business location of the eligible employer in New Mexico to
13 another business location of the eligible employer in New
14 Mexico.

15 K. With respect to each annual application for a
16 high-wage jobs tax credit, the employer shall certify and
17 include:

18 (1) the amount of wages paid to each eligible
19 employee in a new high-wage job during the qualifying period;

20 (2) the number of weeks each position was
21 occupied during the qualifying period;

22 (3) whether the new high-wage job was in a
23 municipality with a population of sixty thousand or more or
24 with a population of less than sixty thousand according to the
25 most recent federal decennial census and whether the job was in

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1 the unincorporated area of a county;

2 (4) which qualifying period the application
3 pertains to for each eligible employee;

4 (5) the total number of employees employed by
5 the employer at the job location on the day prior to the
6 qualifying period and on the last day of the qualifying period;

7 (6) the total number of threshold jobs
8 performed or based at the eligible employer's location on the
9 day prior to the qualifying period and on the last day of the
10 qualifying period;

11 (7) for an eligible employer that has more
12 than one business location in New Mexico from which it conducts
13 business, the total number of threshold jobs performed or based
14 at each business location of the eligible employer in New
15 Mexico on the day prior to the qualifying period and on the
16 last day of the qualifying period;

17 (8) whether the eligible employer is receiving
18 or is eligible to receive development training program
19 assistance pursuant to Section 21-19-7 NMSA 1978;

20 (9) whether the eligible employer has ceased
21 business operations at any of its business locations in New
22 Mexico; and

23 (10) whether the application is precluded by
24 Subsection 0 of this section.

25 L. Any person who willfully submits a false,

1 incorrect or fraudulent certification required pursuant to
2 Subsection K of this section shall be subject to all applicable
3 penalties under the Tax Administration Act, except that the
4 amount on which the penalty is based shall be the total amount
5 of credit requested on the application for approval.

6 M. Except as provided in Subsection N of this
7 section, an approved high-wage jobs tax credit shall be claimed
8 against the taxpayer's modified combined tax liability and
9 shall be filed with the return due immediately following the
10 date of the credit approval. If the credit exceeds the
11 taxpayer's modified combined tax liability, the excess shall be
12 refunded to the taxpayer.

13 N. If the taxpayer ceases business operations in
14 New Mexico while an application for credit approval is pending
15 or after an application for credit has been approved for any
16 qualifying period for a new high-wage job, the department shall
17 not grant an additional high-wage jobs tax credit to that
18 taxpayer except as provided in Subsection O of this section and
19 shall extinguish any amount of credit approved for that
20 taxpayer that has not already been claimed against the
21 taxpayer's modified combined tax liability.

22 O. A taxpayer that has received a high-wage jobs
23 tax credit shall not submit a new application for the credit
24 for a minimum of two calendar years from the closing date of
25 the last qualifying period for which the taxpayer received the

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1 credit if the taxpayer lost eligibility to claim the credit
2 from a previous application pursuant to Subsection N of this
3 section.

4 P. The economic development department and the
5 taxation and revenue department shall report to the appropriate
6 interim legislative committee each year the cost of the high-
7 wage jobs tax credit to the state and its impact on company
8 recruitment and job creation.

9 Q. As used in this section:

10 (1) "benefits" means all remuneration for work
11 performed that is provided to an employee in whole or in part
12 by the employer, other than wages, including the employer's
13 contributions to insurance programs, health care, medical,
14 dental and vision plans, life insurance, employer contributions
15 to pensions, such as a 401(k), and employer-provided services,
16 such as child care, offered by an employer to the employee;

17 (2) "consecutive qualifying period" means each
18 of the three qualifying periods successively following the
19 qualifying period in which the new high-wage job was created;

20 (3) "department" means the taxation and
21 revenue department;

22 (4) "dependent" means "dependent" as defined
23 in 26 U.S.C. 152(a), as that section may be amended or
24 renumbered;

25 (5) "domicile" means the sole place where an

1 individual has a true, fixed, permanent home. It is the place
2 where the individual has a voluntary, fixed habitation of self
3 and family with the intention of making a permanent home;

4 (6) "eligible employee" means an individual
5 who is employed in New Mexico by an eligible employer and who
6 is a resident of New Mexico; "eligible employee" does not
7 include an individual who:

8 (a) is a dependent of the employer;

9 (b) if the employer is an estate or
10 trust, is a grantor, beneficiary or fiduciary of the estate or
11 trust or is a dependent of a grantor, beneficiary or fiduciary
12 of the estate or trust;

13 (c) if the employer is a corporation, is
14 a dependent of an individual who owns, directly or indirectly,
15 more than fifty percent in value of the outstanding stock of
16 the corporation; or

17 (d) if the employer is an entity other
18 than a corporation, estate or trust, is a dependent of an
19 individual who owns, directly or indirectly, more than fifty
20 percent of the capital and profits interests in the entity;

21 (7) "eligible employer" means an employer
22 that, during the applicable qualifying period, would be
23 eligible for development training program assistance under the
24 fiscal year 2019 policies defining development training program
25 eligibility developed by the industrial training board in

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1 accordance with Section 21-19-7 NMSA 1978;

2 (8) "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 (9) "new high-wage job" means a new job
16 created in New Mexico by an eligible employer on or after July
17 1, 2004 and prior to July 1, 2026 that is occupied for at least
18 forty-four weeks of a qualifying period by an eligible employee
19 who is paid wages calculated for the qualifying period to be at
20 least:

21 (a) for a new high-wage job created
22 prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if
23 the job is performed or based in or within ten miles of the
24 external boundaries of a municipality with a population of
25 sixty thousand or more according to the most recent federal

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1 decennial census or in a class H county; and 2) twenty-eight
2 thousand dollars (\$28,000) if the job is performed or based in
3 a municipality with a population of less than sixty thousand
4 according to the most recent federal decennial census or in the
5 unincorporated area, that is not within ten miles of the
6 external boundaries of a municipality with a population of
7 sixty thousand or more, of a county other than a class H
8 county; and

9 (b) for a new high-wage job created on
10 or after July 1, 2015: 1) sixty thousand dollars (\$60,000) if
11 the job is performed or based in or within ten miles of the
12 external boundaries of a municipality with a population of
13 sixty thousand or more according to the most recent federal
14 decennial census or in a class H county; and 2) forty thousand
15 dollars (\$40,000) if the job is performed or based in a
16 municipality with a population of less than sixty thousand
17 according to the most recent federal decennial census or in the
18 unincorporated area, that is not within ten miles of the
19 external boundaries of a municipality with a population of
20 sixty thousand or more, of a county other than a class H
21 county;

22 (10) "new job" means a job that is occupied by
23 an employee who has not been employed in New Mexico by the
24 eligible employer in the three years prior to the date of hire;

25 (11) "qualifying period" means the period of

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1 twelve months beginning on the day an eligible employee begins
2 working in a new high-wage job or the period of twelve months
3 beginning on the anniversary of the day an eligible employee
4 began working in a new high-wage job;

5 (12) "resident" means a natural person whose
6 domicile is in New Mexico at the time of hire or within one
7 hundred eighty days of the date of hire;

8 (13) "threshold job" means a job that:
9 (a) is occupied for at least forty-four
10 weeks of ~~[a calendar year]~~ the first fifty-two weeks of
11 employment by an eligible employee; provided that the fifty-
12 two-week period begins on the day the eligible employee
13 occupies the job; and ~~[that]~~

14 (b) meets the wage requirements for a
15 new high-wage job; and

16 (14) "wages" means all compensation paid by an
17 eligible employer to an eligible employee through the
18 employer's payroll system, including those wages that the
19 employee elects to defer or redirect or the employee's
20 contribution to a 401(k) or cafeteria plan program, but "wages"
21 does not include benefits or the employer's share of payroll
22 taxes, social security or medicare contributions, federal or
23 state unemployment insurance contributions or workers'
24 compensation."

25 SECTION 2. APPLICABILITY.--The provisions of this act

1 apply to applications for a high-wage jobs tax credit received
2 by the taxation and revenue department on and after the
3 effective date of this act.

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underscoring material = new
~~[bracketed material] = delete~~