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SENATE BILL 107

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

INTRODUCED BY

William E. Sharer

AN ACT

RELATING TO TAXATION; INCREASING THE AMOUNT OF THE RURAL JOB TAX CREDIT; MAKING THE CREDIT REFUNDABLE AND REMOVING TRANSFERABILITY.

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, as amended) 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 approve, 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)]~~ thirty-two thousand dollars  
2 (\$32,000) in wages paid for the qualifying job if the job is  
3 performed or based at a location in a tier one area; or

4 (2) twelve and one-half percent of the first  
5 [~~sixteen thousand dollars (\$16,000)]~~ thirty-two thousand  
6 dollars (\$32,000) in wages paid if the qualifying job is  
7 performed or based at a location in a tier two area.

8 B. The purpose of the rural job tax credit is to  
9 encourage businesses to start new businesses or expand existing  
10 businesses in rural areas of the state.

11 C. The amount of the rural job tax credit shall be  
12 six and one-fourth percent of the first [~~sixteen thousand~~  
13 ~~dollars (\$16,000)]~~ thirty-two thousand dollars (\$32,000) in  
14 wages paid for the qualifying job in a qualifying period. The  
15 rural job tax credit may be claimed for each qualifying job for  
16 a maximum of:

17 (1) four qualifying periods for each  
18 qualifying job performed or based at a location in a tier one  
19 area; and

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

22 D. With respect to each qualifying job for which an  
23 eligible employer seeks the rural job tax credit, the employer  
24 shall certify:

25 (1) the amount of wages paid to each eligible

1 employee during each qualifying period;

2 (2) the number of weeks during the qualifying  
3 period the position was occupied;

4 (3) whether the qualifying job was in a tier  
5 one or tier two area;

6 (4) whether the application pertains to the  
7 first, second, third or fourth qualifying period, depending on  
8 whether the taxpayer is in a tier one or tier two area;

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

12 (6) whether the eligible employer is receiving  
13 or is eligible to receive development training program  
14 assistance pursuant to Section 21-19-7 NMSA 1978; and

15 (7) whether the eligible employer has ceased  
16 business operations at any of its business locations in New  
17 Mexico.

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

23 F. To receive a rural job tax credit with respect  
24 to any qualifying period, an eligible employer shall apply to  
25 the taxation and revenue department once per calendar year on

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1 forms and in the manner the department may prescribe. The  
2 annual application shall include a certification made pursuant  
3 to Subsection D of this section and contain all qualifying  
4 periods that closed during the calendar year for which the  
5 application is made. Any qualifying period that did not close  
6 in the calendar year for which the application is made shall be  
7 denied by the department. The application for a calendar year  
8 shall be filed no later than December 31 of the following  
9 calendar year. If a taxpayer fails to file the annual  
10 application within the time limits provided in this section,  
11 the department shall deny the application. If all the  
12 requirements of this section have been complied with, the  
13 taxation and revenue department shall issue to the applicant a  
14 document granting a tax credit for the appropriate qualifying  
15 period. ~~[The tax credit document shall be numbered for~~  
16 ~~identification and declare its date of issuance and the amount~~  
17 ~~of rural job tax credit allowed for the respective jobs~~  
18 ~~created. The tax credit documents may be sold, exchanged or~~  
19 ~~otherwise transferred and may be carried forward for a period~~  
20 ~~of three years from the date of issuance. The parties to such~~  
21 ~~a transaction to sell, exchange or transfer a rural job tax~~  
22 ~~credit document shall notify the department of the transaction~~  
23 ~~within ten days of the sale, exchange or transfer.]~~

24 G. The ~~[holder of the tax credit document]~~ taxpayer  
25 may claim all or a portion of the rural job tax credit granted

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1 by the tax credit document against the ~~[holder's]~~ taxpayer's  
2 modified combined tax liability, personal income tax liability  
3 or corporate income tax liability. ~~[Any balance of rural job~~  
4 ~~tax credit granted by the document may be carried forward for~~  
5 ~~up to three years from the date of issuance of the tax credit~~  
6 ~~document.]~~ No amount of rural job tax credit may be applied  
7 against a gross receipts tax or compensating tax imposed by a  
8 municipality or county. Any balance of rural job tax credit  
9 granted by the tax credit document shall be refunded to the  
10 taxpayer.

11 H. Notwithstanding the provisions of Section 7-1-8  
12 NMSA 1978, the taxation and revenue department may disclose to  
13 any person the balance of rural job tax credit remaining on any  
14 tax credit document and the balance of credit remaining on that  
15 document for any period.

16 I. The secretary of economic development, the  
17 secretary of taxation and revenue and the secretary of  
18 workforce solutions or their designees shall annually evaluate  
19 the effectiveness of the rural job tax credit in stimulating  
20 economic development in the rural areas of New Mexico and make  
21 a joint report of their findings to each session of the  
22 legislature so long as the rural job tax credit is in effect.

23 J. A qualifying job shall not be eligible for a  
24 rural job tax credit pursuant to this section if:

- 25 (1) the job is created due to a business

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1 merger, acquisition or other change in organization;

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

5 (3) the job is performed by:

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

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

12 ~~[K. Notwithstanding Subsection J of this section, a~~  
13 ~~qualifying job that was created by another employer and for~~  
14 ~~which the rural job tax credit application was received by the~~  
15 ~~taxation and revenue department prior to July 1, 2013 and is~~  
16 ~~under review or has been approved shall remain eligible for the~~  
17 ~~rural job tax credit for the balance of the qualifying periods~~  
18 ~~for which the job qualifies by the new employer that results~~  
19 ~~from a business merger, acquisition or other change in the~~  
20 ~~organization.~~

21 ~~L.]~~ K. A job shall not be eligible for a rural job  
22 tax credit pursuant to this section if the job is created due  
23 to an eligible employer entering into a contract or becoming a  
24 subcontractor to a contract with a governmental entity that  
25 replaces one or more entities performing functionally

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1 equivalent services for the governmental entity in New Mexico  
2 unless the job is a qualifying job that was not being performed  
3 by an employee of the replaced entity.

4 ~~[M.]~~ L. As used in this section:

5 (1) "dependent" means "dependent" as defined  
6 in 26 U.S.C. 152(a), as that section may be amended or  
7 renumbered;

8 (2) "eligible employee" means any individual  
9 other than an individual who:

10 (a) is a dependent of the employer;

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

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

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

23 (e) is working or has worked as an  
24 employee or as an independent contractor for an entity that,  
25 directly or indirectly, owns stock in a corporation of the

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1 eligible employer or other interest of the eligible employer  
2 that represents fifty percent or more of the total voting power  
3 of that entity or has a value equal to fifty percent or more of  
4 the capital and profits interests in the entity;

5 (3) "eligible employer" means an employer who  
6 is eligible for in-plant training assistance pursuant to  
7 Section 21-19-7 NMSA 1978;

8 (4) "metropolitan statistical area" means a  
9 metropolitan statistical area in New Mexico as determined by  
10 the United States bureau of the census;

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

24 (6) "new job" means a job that is occupied by  
25 an employee who has not been employed in New Mexico by the

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1 eligible employer in the three years prior to the date of hire;

2 (7) "qualifying job" means a new job that was  
3 created after July 1, 2000 and that was not created due to a  
4 change in organizational structure established by the employer  
5 that is occupied by an eligible employee for at least forty-  
6 four weeks of a qualifying period;

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

12 (9) "rural area" means any part of the state  
13 other than:

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

23 (10) "tier one area" means:

- 24 (a) any municipality within the rural  
25 area if the municipality's population according to the most

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1 recent federal decennial census is fifteen thousand or less; or

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

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

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

14 SECTION 2. APPLICABILITY.--The provisions of this act  
15 apply to tax returns filed on or after the effective date of  
16 this act:

17 A. for rural job tax credit claims against a  
18 taxpayer's modified combined tax liability, for qualified jobs  
19 created in the calendar quarters beginning on or after July 1,  
20 2024; and

21 B. for rural job tax credit claims against a  
22 taxpayer's personal income tax liability or corporate income  
23 tax liability, for qualified jobs created in taxable years  
24 beginning on or after January 1, 2024.