

1 AN ACT
2 RELATING TO THE HIGH-WAGE JOBS TAX CREDIT; AMENDING THE
3 DEFINITION OF "THRESHOLD JOB" APPLICABLE TO THE CREDIT.
4

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

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

8 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-
9 WAGE JOBS.--

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

14 B. The purpose of the high-wage jobs tax credit is
15 to provide an incentive for urban and rural businesses to
16 create and fill new high-wage jobs in New Mexico.

17 C. The high-wage jobs tax credit may be claimed
18 and allowed in an amount equal to eight and one-half percent
19 of the wages distributed to an eligible employee in a new
20 high-wage job but shall not exceed twelve thousand seven
21 hundred fifty dollars (\$12,750) per job per qualifying
22 period. The high-wage jobs tax credit may be claimed by an
23 eligible employer for each new high-wage job performed for
24 the year in which the new high-wage job is created and for
25 consecutive qualifying periods.

1 D. To receive a high-wage jobs tax credit, a
2 taxpayer shall file an application for approval of the credit
3 with the department once per calendar year on forms and in
4 the manner prescribed by the department. The annual
5 application shall contain the certification required by
6 Subsection K of this section and shall contain all qualifying
7 periods that closed during the calendar year for which the
8 application is made. Any qualifying period that did not
9 close in the calendar year for which the application is made
10 shall be denied by the department. The application for a
11 calendar year shall be filed no later than December 31 of the
12 following calendar year. If a taxpayer fails to file the
13 annual application within the time limits provided in this
14 section, the application shall be denied by the department.
15 The department shall make a determination on the application
16 within one hundred eighty days of the date on which the
17 application was filed.

18 E. A new high-wage job shall not be eligible for a
19 credit pursuant to this section for the initial qualifying
20 period unless the eligible employer's total number of
21 employees with threshold jobs on the last day of the initial
22 qualifying period at the location at which the job is
23 performed or based is at least one more than the number of
24 threshold jobs on the day prior to the date the new high-wage
25 job was created. A new high-wage job shall not be eligible

1 for a credit pursuant to this section for a consecutive
2 qualifying period unless the total number of threshold jobs
3 at a location at which the job is performed or based on the
4 last day of that qualifying period is greater than or equal
5 to the number of threshold jobs at that same location on the
6 last day of the initial qualifying period for the new high-
7 wage job.

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

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

14 (1) the new high-wage job is created due to
15 a business merger or acquisition or other change in business
16 organization;

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

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

22 (a) the person who performed the job or
23 its functional equivalent prior to the business merger or
24 acquisition or other change in business organization; or

25 (b) a person replacing the person who

1 performed the job or its functional equivalent prior to a
2 business merger or acquisition or other change in business
3 organization.

4 H. A new high-wage job that was created by another
5 employer and for which an application for the high-wage jobs
6 tax credit was received and is under review by the department
7 prior to the time of the business merger or acquisition or
8 other change in business organization shall remain eligible
9 for the high-wage jobs tax credit for the balance of the
10 consecutive qualifying periods. The new employer that
11 results from a business merger or acquisition or other change
12 in business organization may only claim the high-wage jobs
13 tax credit for the balance of the consecutive qualifying
14 periods for which the new high-wage job is otherwise
15 eligible.

16 I. A new high-wage job shall not be eligible for a
17 credit pursuant to this section if the job is created due to
18 an eligible employer entering into a contract or becoming a
19 subcontractor to a contract with a governmental entity that
20 replaces one or more entities performing functionally
21 equivalent services for the governmental entity unless the
22 job is a new high-wage job that was not being performed by an
23 employee of the replaced entity.

24 J. A new high-wage job shall not be eligible for a
25 credit pursuant to this section if the eligible employer has

1 more than one business location in New Mexico from which it
2 conducts business and the requirements of Subsection E of
3 this section are satisfied solely by moving the job from one
4 business location of the eligible employer in New Mexico to
5 another business location of the eligible employer in New
6 Mexico.

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

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

13 (2) the number of weeks each position was
14 occupied during the qualifying period;

15 (3) whether the new high-wage job was in a
16 municipality with a population of sixty thousand or more or
17 with a population of less than sixty thousand according to
18 the most recent federal decennial census and whether the job
19 was in the unincorporated area of a county;

20 (4) which qualifying period the application
21 pertains to for each eligible employee;

22 (5) the total number of employees employed
23 by the employer at the job location on the day prior to the
24 qualifying period and on the last day of the qualifying
25 period;

1 (6) the total number of threshold jobs
2 performed or based at the eligible employer's location on the
3 day prior to the qualifying period and on the last day of the
4 qualifying period;

5 (7) for an eligible employer that has more
6 than one business location in New Mexico from which it
7 conducts business, the total number of threshold jobs
8 performed or based at each business location of the eligible
9 employer in New Mexico on the day prior to the qualifying
10 period and on the last day of the qualifying period;

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

14 (9) whether the eligible employer has ceased
15 business operations at any of its business locations in New
16 Mexico; and

17 (10) whether the application is precluded by
18 Subsection O of this section.

19 L. Any person who willfully submits a false,
20 incorrect or fraudulent certification required pursuant to
21 Subsection K of this section shall be subject to all
22 applicable penalties under the Tax Administration Act, except
23 that the amount on which the penalty is based shall be the
24 total amount of credit requested on the application for
25 approval.

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

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

17 O. A taxpayer that has received a high-wage jobs
18 tax credit shall not submit a new application for the credit
19 for a minimum of two calendar years from the closing date of
20 the last qualifying period for which the taxpayer received
21 the credit if the taxpayer lost eligibility to claim the
22 credit from a previous application pursuant to Subsection N
23 of this section.

24 P. The economic development department and the
25 taxation and revenue department shall report to the

1 appropriate interim legislative committee each year the cost
2 of the high-wage jobs tax credit to the state and its impact
3 on company recruitment and job creation.

4 Q. As used in this section:

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

13 (2) "consecutive qualifying period" means
14 each of the three qualifying periods successively following
15 the qualifying period in which the new high-wage job was
16 created;

17 (3) "department" means the taxation and
18 revenue department;

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

22 (5) "domicile" means the sole place where an
23 individual has a true, fixed, permanent home. It is the
24 place where the individual has a voluntary, fixed habitation
25 of self and family with the intention of making a permanent

1 home;

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

6 (a) is a dependent of the employer;

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

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

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

19 (7) "eligible employer" means an employer
20 that, during the applicable qualifying period, would be
21 eligible for development training program assistance under
22 the fiscal year 2019 policies defining development training
23 program eligibility developed by the industrial training
24 board in accordance with Section 21-19-7 NMSA 1978;

25 (8) "modified combined tax liability" means

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

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

19 (a) for a new high-wage job created
20 prior to July 1, 2015: 1) forty thousand dollars (\$40,000)
21 if the job is performed or based in or within ten miles of
22 the external boundaries of a municipality with a population
23 of sixty thousand or more according to the most recent
24 federal decennial census or in a class H county; and 2)
25 twenty-eight thousand dollars (\$28,000) if the job is

1 performed or based in a municipality with a population of
2 less than sixty thousand according to the most recent federal
3 decennial census or in the unincorporated area, that is not
4 within ten miles of the external boundaries of a municipality
5 with a population of sixty thousand or more, of a county
6 other than a class H county; and

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

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

24 (11) "qualifying period" means the period of
25 twelve months beginning on the day an eligible employee

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

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

7 (13) "threshold job" means a job that:

8 (a) is occupied for at least forty-four
9 weeks of the first fifty-two weeks of employment by an
10 eligible employee; provided that the fifty-two-week period
11 begins on the day the eligible employee occupies the job; and

12 (b) meets the wage requirements for a
13 "new high-wage job"; and

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

23 SECTION 2. APPLICABILITY.--The provisions of this act
24 apply to applications for a high-wage jobs tax credit received
25 by the taxation and revenue department on or after the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

effective date of this act. _____