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SENATE BILL 849

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO TAXATION; CREATING A HIGH-WAGE JOBS TAX CREDIT.

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

Section 1. TAX CREDIT--QUALIFYING HIGH-WAGE JOBS. --

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

B. The amount of the high-wage jobs tax credit that may be claimed and allowed is an amount equal to the sum of:

(1) five percent of the wages paid to each eligible employee in a new high-wage job, whose average annual wage for the qualifying period is at least one hundred ten percent but less than one hundred twenty-five percent of the

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1 average annual wage in the county in which the job is performed
2 or based; and

3 (2) ten percent of the wages paid to each
4 eligible employee in a new high-wage job, whose average annual
5 wage for the qualifying period is at least one hundred twenty-
6 five percent of the average annual wage in the county in which
7 the job is performed or based.

8 C. The high-wage jobs tax credit may be claimed by
9 an eligible employer for each new high-wage job performed or
10 based at a location in the following classes of municipalities
11 and counties for the following number of qualifying periods:

12 (1) for three qualifying periods, if the job
13 is performed or based at a location within the boundaries of a
14 small municipality or outside municipal boundaries in a small
15 county, which means a municipality or county with a population
16 of less than fifteen thousand according to the most recent
17 federal decennial census;

18 (2) for two qualifying periods, if the job is
19 performed or based at a location within the boundaries of a
20 medium-sized municipality or outside municipal boundaries in a
21 medium-sized county, which means a municipality or county with
22 a population of fifteen thousand or more but less than thirty
23 thousand according to the most recent federal decennial census;
24 or

25 (3) for one qualifying period, if the job is

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1 performed or based at a location within the boundaries of a
2 large municipality or outside municipal boundaries in a large
3 county, which means a municipality or county with a population
4 of thirty thousand or more according to the most recent federal
5 decennial census.

6 D. A new high-wage job shall not be eligible for a
7 credit pursuant to this section unless the eligible employer's
8 total number of employees employed on the last day of the
9 qualifying period at the location at which the job is performed
10 or based is at least one more than the number on the day prior
11 to the date the job was created.

12 E. With respect to each new high-wage job for which
13 an eligible employer seeks the high-wage jobs tax credit, the
14 employer shall certify:

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

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

19 (3) whether the new high-wage job was in a
20 small, medium-sized or large municipality or county as those
21 terms are used in Subsection C of this section; and

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

25 F. To receive a high-wage jobs tax credit with

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1 respect to any qualifying period, an eligible employer must
2 apply to the taxation and revenue department on forms and in
3 the manner the department may prescribe. The application shall
4 include a certification made pursuant to Subsection E of this
5 section. If all the requirements of that subsection have been
6 met, the taxation and revenue department may issue to the
7 applicant a document granting a tax credit for the respective
8 qualifying period. The tax credit document shall be numbered
9 for identification and shall declare its date of issuance and
10 the amount of high-wage jobs tax credit allowed for the
11 respective new high-wage jobs created. Such tax credit
12 documents may be sold, exchanged or otherwise transferred and
13 may be carried forward for a period of three years from the
14 date of issuance. The parties to the transaction shall notify
15 the department of the sale, exchange or transfer within ten
16 days of that sale, exchange or transfer.

17 G. The holder of a tax credit document may apply
18 all or a portion of the high-wage jobs tax credit against the
19 taxpayer's modified combined tax liability, personal income tax
20 liability or corporate income tax liability. Any unused
21 portion of the high-wage jobs tax credit may be carried forward
22 for a period of up to three years from the date the credit was
23 approved.

24 H. Notwithstanding the provisions of Section 7-1-8
25 NMSA 1978, upon the request of an eligible employer who has

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1 received a high-wage jobs tax credit, the taxation and revenue
2 department may disclose to any person the balance of high-wage
3 jobs tax credit remaining on that employer's tax credit
4 document and the balance of credit remaining on that document
5 for any period.

6 I. As used in this section:

7 (1) "average annual wage in the county" means
8 the average annual wage per job in the county as available in
9 the most recent local area personal income data released by the
10 bureau of economic analysis of the United States department of
11 commerce;

12 (2) "eligible employee" means an individual
13 who is employed by an eligible employer and who is a resident
14 of New Mexico; "eligible employee" does not include an
15 individual who:

16 (a) bears any of the relationships
17 described in Paragraphs (1) through (8) of 26 U.S.C. Section
18 152(a) to the employer or, if the employer is a corporation, to
19 an individual who owns, directly or indirectly, more than fifty
20 percent in value of the outstanding stock of the corporation
21 or, if the employer is an entity other than a corporation, to
22 an individual who owns, directly or indirectly, more than fifty
23 percent of the capital and profits interest in the entity;

24 (b) if the employer is an estate or
25 trust, is a grantor, beneficiary or fiduciary of the state or

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1 trust or is an individual who bears any of the relationships
2 described in Paragraphs (1) through (8) of 26 U. S. C. Section
3 152(a) to a grantor, beneficiary or fiduciary of the estate or
4 trust; or

5 (c) is a dependent, as that term is
6 described in 26 U. S. C. Section 152(a)(9), of the employer, or,
7 if the taxpayer is a corporation, of an individual who owns,
8 directly or indirectly, more than fifty percent in value of the
9 outstanding stock of the corporation or, if the employer is an
10 entity other than a corporation, of an individual who owns,
11 directly or indirectly, more than fifty percent of the capital
12 and profits interests in the entity or, if the employer is an
13 estate or trust, of a grantor, beneficiary or fiduciary of the
14 estate or trust;

15 (3) "eligible employer" means an employer who
16 made more than fifty percent of its sales to persons outside
17 New Mexico during the most recent twelve months of the
18 employer's modified combined tax liability reporting periods
19 ending prior to claiming a high-wage jobs tax credit;

20 (4) "modified combined tax liability" means
21 the total liability for the reporting period for the gross
22 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
23 any tax collected at the same time and in the same manner as
24 the gross receipts tax, such as the compensating tax, the
25 withholding tax, the interstate telecommunications gross

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1 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
2 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
3 minus the amount of any credit other than the high-wage jobs
4 tax credit applied against any or all of these taxes or
5 surcharges; but "modified combined tax liability" excludes all
6 amounts collected with respect to local option gross receipts
7 taxes;

8 (5) "new high-wage job" means a job created by
9 an eligible employer on or after July 1, 2003 and prior to July
10 1, 2008 that is occupied for at least forty-eight weeks of a
11 qualifying period by an eligible employee who is paid wages
12 calculated for the qualifying period to be at least one hundred
13 ten percent of the average annual wage in the county in which
14 the job is performed or based;

15 (6) "qualifying period" means the period of
16 twelve months beginning on the day an eligible employee begins
17 working in a new high-wage job or the period of twelve months
18 beginning on the anniversary of the day an eligible employee
19 began working in a new high-wage job; and

20 (7) "wages" means wages as defined in
21 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).

22 Section 2. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003.