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HOUSE BILL 300

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY  
Jose A. Campos

AN ACT

RELATING TO TAXATION; CREATING A TAX CREDIT TO ENCOURAGE HIGH-WAGE JOBS IN RURAL COMMUNITIES.

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 each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages and benefits distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000).

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1           C. The high-wage jobs tax credit may be claimed by  
2 an eligible employer for each new high-wage economic-based job  
3 performed for the year in which the new high-wage economic-  
4 based job is created and for the three following qualifying  
5 periods.

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

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

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

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

21                   (3) whether the new high-wage economic-based  
22 job was in a municipality with a population of forty thousand  
23 or more or with a population of less than forty thousand  
24 according to the most recent federal decennial census and  
25 whether the job was in the unincorporated area of a county; and

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1 (4) the total number of employees employed by  
2 the employer at the job location on the day prior to the  
3 qualifying period and on the last day of the qualifying period.

4 F. To receive a high-wage jobs tax credit with  
5 respect to any qualifying period, an eligible employer shall  
6 apply to the taxation and revenue department on forms and in  
7 the manner prescribed by the department. The application shall  
8 include a certification made pursuant to Subsection E of this  
9 section.

10 G. The credit provided in this section may be  
11 deducted from the modified combined tax liability of a  
12 taxpayer. If the credit exceeds the modified combined tax  
13 liability of the taxpayer, the excess shall be refunded to the  
14 taxpayer.

15 H. As used in this section:

16 (1) "benefits" means any employee benefit plan  
17 as defined in Title 1, Section 3 of the federal Employee  
18 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

19 (2) "eligible employee" means an individual  
20 who is employed by an eligible employer and who is a resident  
21 of New Mexico; "eligible employee" does not include an  
22 individual who:

23 (a) bears any of the relationships  
24 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
25 152(a) to the employer or, if the employer is a corporation, to

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1 an individual who owns, directly or indirectly, more than fifty  
2 percent in value of the outstanding stock of the corporation  
3 or, if the employer is an entity other than a corporation, to  
4 an individual who owns, directly or indirectly, more than fifty  
5 percent of the capital and profits interest in the entity;

6 (b) if the employer is an estate or  
7 trust, is a grantor, beneficiary or fiduciary of the estate or  
8 trust or is an individual who bears any of the relationships  
9 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
10 152(a) to a grantor, beneficiary or fiduciary of the estate or  
11 trust;

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

22 (d) is working or has worked as an  
23 employee or as an independent contractor for an entity that  
24 directly or indirectly owns stock in a corporation of the  
25 eligible employer or other interest of the eligible employer

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

4 (3) "eligible employer" means an employer  
5 that:

6 (a) made more than fifty percent of its  
7 sales to persons outside New Mexico during the most recent  
8 twelve months of the employer's modified combined tax liability  
9 reporting periods ending prior to claiming a high-wage jobs tax  
10 credit or made more than fifty percent of its sales to persons  
11 outside the county in which the employer is located during that  
12 period if the county has a population of less than forty  
13 thousand; and

14 (b) is eligible for development training  
15 fund assistance pursuant to Section 21-19-7 NMSA 1978;

16 (4) "modified combined tax liability" means  
17 the total liability for the reporting period for the gross  
18 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
19 any tax collected at the same time and in the same manner as  
20 the gross receipts tax, such as the compensating tax, the  
21 withholding tax, the interstate telecommunications gross  
22 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
23 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
24 minus the amount of any credit other than the high-wage jobs  
25 tax credit applied against any or all of these taxes or

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1 surcharges; but "modified combined tax liability" excludes all  
2 amounts collected with respect to local option gross receipts  
3 taxes;

4 (5) "new high-wage economic-based job" means a  
5 job created by an eligible employer on or after July 1, 2004  
6 and prior to July 1, 2009 that is occupied for at least forty-  
7 eight weeks of a qualifying period by an eligible employee who  
8 is paid wages calculated for the qualifying period to be at  
9 least:

10 (a) forty thousand dollars (\$40,000) if  
11 the job is performed or based in a municipality with a  
12 population of forty thousand or more according to the most  
13 recent federal decennial census; and

14 (b) twenty-eight thousand dollars  
15 (\$28,000) if the job is performed or based in a municipality  
16 with a population of less than forty thousand according to the  
17 most recent federal decennial census or in the unincorporated  
18 area of a county;

19 (6) "qualifying period" means the period of  
20 twelve months beginning on the day an eligible employee begins  
21 working in a new high-wage economic-based job or the period of  
22 twelve months beginning on the anniversary of the day an  
23 eligible employee began working in a new high-wage economic-  
24 based job; and

25 (7) "wages" means wages as defined in

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Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).