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HOUSE BILL 53

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; AMENDING SECTION 7-2E-1 NMSA 1978 (BEING LAWS 1999, CHAPTER 183, SECTION 1, AS AMENDED) TO PROVIDE FOR A PERMANENT RURAL JOB TAX CREDIT; REPEALING SECTION 7-2E-2 NMSA 1978 (BEING LAWS 1999, CHAPTER 183, SECTION 2, AS AMENDED).

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

Section 1. Section 7-2E-1 NMSA 1978 (being Laws 1999, Chapter 183, Section 1, as amended) is amended to read:

"7-2E-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". [~~Until June 30, 2006~~] Every eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each qualifying job the employer creates [~~in the period beginning July 1, 2000 and ending June 30, 2005~~]. The maximum tax credit

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1 amount with respect to each qualifying job is equal to:

2 (1) twenty-five percent of the first sixteen
3 thousand dollars (\$16,000) in wages paid for the qualifying job
4 if the job is performed or based at a location in a tier one
5 area; or

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

10 B. As used in this section:

11 (1) "eligible employee" means any individual
12 other than an individual who:

13 (a) bears any of the relationships
14 described in Paragraphs (1) through (8) of 26 U. S. C. Section
15 152(a) to the employer or, if the employer is a corporation, to
16 an individual who owns, directly or indirectly, more than fifty
17 percent in value of the outstanding stock of the corporation
18 or, if the employer is an entity other than a corporation, to
19 any individual who owns, directly or indirectly, more than
20 fifty percent of the capital and profits interests in the
21 entity;

22 (b) if the employer is an estate or
23 trust, is a grantor, beneficiary or fiduciary of the estate or
24 trust or is an individual who bears any of the relationships
25 described in Paragraphs (1) through (8) of 26 U. S. C. Section

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1 152(a) to a grantor, beneficiary or fiduciary of the estate or
2 trust; or

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

13 (2) "eligible employer" means an employer
14 who has been approved for in-plant training assistance pursuant
15 to Section 21-19-7 NMSA 1978;

16 (3) "metropolitan statistical area" means a
17 metropolitan statistical area in New Mexico as determined by
18 the United States bureau of the census;

19 (4) "modified combined tax liability" means
20 the total liability for the reporting period for the gross
21 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
22 any tax collected at the same time and in the same manner as
23 that gross receipts tax, such as the compensating tax, the
24 withholding tax, the interstate telecommunications gross
25 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA

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

6 (5) "qualifying job" means a job established
7 by the employer that is occupied by an eligible employee for at
8 least forty-eight weeks of a qualifying period;

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

14 (7) "rural area" means any part of the state
15 other than:

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

25 (8) "tier one area" means:

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1 (a) any municipality within the rural
2 area if the municipality's population according to the most
3 recent federal decennial census is fifteen thousand or less; or

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

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

10 (10) "wages" means wages as defined by
11 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).

12 C. The amount of the rural job tax credit shall be
13 six and one-fourth percent of the first sixteen thousand
14 dollars (\$16,000) in wages paid for the qualifying job in a
15 qualifying period. The rural job tax credit may be claimed for
16 each qualifying job for 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 the amount of wages paid to each eligible
25 employee during each qualifying period, the number of weeks

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1 during the qualifying period the position was occupied and
2 whether the qualifying job was in a tier one or tier two area.

3 E. The economic development department shall
4 determine which employers are eligible employers and shall
5 report the listing of eligible businesses to the taxation and
6 revenue department in a manner and at times the departments
7 shall agree upon.

8 F. To receive a rural job tax credit with respect
9 to any qualifying period, an eligible employer must apply to
10 the taxation and revenue department on forms and in the manner
11 the department may prescribe. The application shall include a
12 certification made pursuant to Subsection D of this section.
13 If all the requirements of this section have been complied
14 with, the taxation and revenue department may issue to the
15 applicant a document granting a tax credit for the respective
16 qualifying period. The tax credit document shall be numbered
17 for identification and declare its date of issuance and the
18 amount of rural job tax credit allowed for the respective jobs
19 created. [~~Such~~] The tax credit documents may be sold,
20 exchanged or otherwise transferred and [~~can~~] may be carried
21 forward for a period of three years from the date of issuance.
22 The parties to such a transaction shall notify the department
23 of the sale, exchange or transfer within ten days of the sale,
24 exchange or transfer.

25 G. The holder of the tax credit document may apply

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

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

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

21 Section 2. REPEAL. -- Section 7-2E-2 NMSA 1978 (being Laws
22 1999, Chapter 183, Section 2, as amended) is repealed.

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