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HOUSE BILL 326

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; EXTENDING THE ELIGIBILITY PERIOD FOR THE  
HIGH-WAGE JOBS TAX CREDIT.

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

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

"7-9G-1. HIGH-WAGE JOBS 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

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1 benefits distributed to an eligible employee in a new high-wage  
2 economic-based job, but shall not exceed twelve thousand  
3 dollars (\$12,000).

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

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

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

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

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

24 (3) whether the new high-wage economic-based  
25 job was in a municipality with a population of forty thousand

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1 or more or with a population of less than forty thousand  
2 according to the most recent federal decennial census and  
3 whether the job was in the unincorporated area of a county; and

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

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

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

18 H. As used in this section:

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

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

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1 (a) bears any of the relationships  
2 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
3 152(a) to the employer or, if the employer is a corporation, to  
4 an individual who owns, directly or indirectly, more than fifty  
5 percent in value of the outstanding stock of the corporation  
6 or, if the employer is an entity other than a corporation, to  
7 an individual who owns, directly or indirectly, more than fifty  
8 percent of the capital and profits interest in the entity;

9 (b) if the employer is an estate or  
10 trust, is a grantor, beneficiary or fiduciary of the estate or  
11 trust or is an individual who bears any of the relationships  
12 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
13 152(a) to a grantor, beneficiary or fiduciary of the estate or  
14 trust;

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

25 (d) is working or has worked as an

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1 employee or as an independent contractor for an entity that  
2 directly or indirectly owns stock in a corporation of the  
3 eligible employer or other interest of the eligible employer  
4 that represents fifty percent or more of the total voting power  
5 of that entity or has a value equal to fifty percent or more of  
6 the capital and profits interest in the entity;

7 (3) "eligible employer" means an employer  
8 that:

9 (a) made more than fifty percent of its  
10 sales to persons outside New Mexico during the most recent  
11 twelve months of the employer's modified combined tax liability  
12 reporting periods ending prior to claiming a high-wage jobs tax  
13 credit; or

14 (b) is eligible for development training  
15 program 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~~] 2015 that is occupied for at least  
7 forty-eight weeks of a qualifying period by an eligible  
8 employee who is paid wages calculated for the qualifying period  
9 to be at 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)."