

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILLS 99 & 68

3  
4 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**  
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10 AN ACT

11 RELATING TO TAXATION; PROVIDING A CORPORATE INCOME TAX REBATE  
12 FOR NEW OR RE-EQUIPPED BUSINESSES; REQUIRING INVESTMENT IN  
13 FACILITIES OR EQUIPMENT TO QUALIFY FOR THE BUSINESS TAX REBATE;  
14 PROVIDING LIMITS AND QUALIFICATIONS; PROVIDING FOR PAYMENT OF  
15 THE REBATE AFTER FULL PAYMENT OF TAXES; PROVIDING POST-  
16 PERFORMANCE ASSESSMENT OF THE QUALIFYING ACTIVITIES REQUIRED  
17 FOR APPROVAL OF THE TAX REBATE.  
18

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

20 SECTION 1. A new section of the Corporate Income and  
21 Franchise Tax Act is enacted to read:

22 "[~~NEW MATERIAL~~] BUSINESS TAX REBATE.--

23 A. A taxpayer that files a New Mexico corporate  
24 income tax return for a taxable year beginning on or after  
25 January 1, 2013 but before January 1, 2020 that is a new

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1 business that constructs and equips a new business or upgrades  
2 equipment or facilities for an existing business in New Mexico  
3 may claim, and the department may allow, a tax rebate of the  
4 taxpayer's corporate income tax liability of up to twenty-five  
5 percent of the taxes paid to New Mexico pursuant to the  
6 Corporate Income and Franchise Tax Act in the taxable year.  
7 The rebate provided in this section may be referred to as the  
8 "business tax rebate". The department shall allow a business  
9 tax rebate for a taxpayer that is issued a certificate of  
10 eligibility by the economic development department.

11 B. The purposes of the business tax rebate are to:

12 (1) encourage corporations to begin a new  
13 business or relocate to New Mexico and invest significant  
14 amounts of capital in the state;

15 (2) encourage corporations to invest in  
16 upgrading equipment of an existing business in New Mexico; and

17 (3) generate new state revenue from  
18 construction, employment, improved production capacity and  
19 business activity in New Mexico.

20 C. The business tax rebate may be claimed for seven  
21 consecutive years beginning with the first taxable year in which  
22 the taxpayer is eligible to claim the rebate.

23 D. Prior to January 1, 2013, the taxation and revenue  
24 department and the economic development department shall each  
25 adopt rules to implement the provisions of this section for which

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1 that department is responsible.

2 E. A corporation claiming a business tax rebate  
3 shall apply to the economic development department for a  
4 certificate of eligibility that states that the taxpayer  
5 qualifies for a business tax rebate on a form and in a manner  
6 authorized by the economic development department.

7 F. A certificate of eligibility is valid for only a  
8 taxpayer that is found eligible by the economic development  
9 department to receive a business tax rebate and shall not be  
10 transferred to another taxpayer.

11 G. The economic development department shall  
12 provide a certificate of eligibility to each taxpayer that has  
13 applied for and been found to qualify to receive a business tax  
14 rebate. The economic development department shall maintain  
15 records of the certificates of eligibility issued pursuant to  
16 this section.

17 H. To be eligible to receive a business tax rebate,  
18 a taxpayer shall provide the economic development department  
19 with:

20 (1) evidence of expenditures of no less than  
21 one million dollars (\$1,000,000) to establish a new business  
22 located in New Mexico or no less than two hundred fifty  
23 thousand dollars (\$250,000) invested in new equipment to  
24 improve the productivity of the existing business in New  
25 Mexico;

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1 (2) evidence of one full year of operation in  
2 New Mexico;

3 (3) evidence of payment of all tax liabilities  
4 of the business due to the state of New Mexico in the taxable  
5 year; and

6 (4) statements signed by the taxpayer  
7 authorizing the economic development department and the  
8 taxation and revenue department to reveal to the legislature  
9 and its agencies, only for purposes of evaluating the  
10 effectiveness of the business tax rebate and not for public  
11 dissemination except as aggregate values, information from the  
12 taxpayer's tax returns or submitted reports needed to evaluate  
13 the effectiveness of the business tax rebate in fulfilling its  
14 purposes.

15 I. To claim the business tax rebate, a taxpayer  
16 shall submit with the taxpayer's New Mexico corporate income  
17 tax return a certificate of eligibility issued pursuant to this  
18 section, individually identifiable and displaying the date on  
19 which the certificate of eligibility is issued. The  
20 certificate of eligibility shall state:

21 (1) the details that make the taxpayer  
22 eligible to receive the business tax rebate;

23 (2) the number of employees employed by the  
24 taxpayer in the taxable year;

25 (3) the total, average and median wages paid

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1 by the taxpayer in the taxable year to employees of the  
 2 business for which the rebate is being claimed; and

3 (4) the amount of the taxpayer's investment to  
 4 begin or relocate the taxpayer's business or to upgrade  
 5 equipment of an existing business.

6 J. The department shall provide a rebate claim form  
 7 on which a taxpayer may claim a business tax rebate. A rebate  
 8 claim form shall accompany a return filed pursuant to the  
 9 Corporate Income and Franchise Tax Act in which the taxpayer is  
 10 applying for a business tax rebate. The department shall  
 11 determine the amount of the business tax rebate that is allowed  
 12 the taxpayer for the taxable year by determining the amount of  
 13 corporate income taxes paid by the taxpayer in the taxable year  
 14 pursuant to the Corporate Income and Franchise Tax Act and  
 15 applying a tax rate of twenty-five percent to the amount paid.  
 16 The rebate shall be made sixty days following the date on which  
 17 the taxpayer files the return.

18 K. The department shall compile an annual report  
 19 that includes the following information regarding the calendar  
 20 year preceding the report:

21 (1) the number of taxpayers approved by the  
 22 department to receive a business tax rebate;

23 (2) the aggregate amount of business tax  
 24 rebates allowed in the calendar year;

25 (3) the number of jobs created in the calendar

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1 year by taxpayers claiming the business tax rebate;

2 (4) the wages paid by taxpayers claiming the  
3 business tax rebate in the calendar year; and

4 (5) any other information that the department,  
5 the legislative finance committee or the interim revenue  
6 stabilization and tax policy committee deems necessary to  
7 evaluate the effectiveness of the business tax rebate in  
8 fulfilling the purposes of this section. In 2016, the  
9 department shall present to the interim revenue stabilization  
10 and tax policy committee an analysis of whether the business  
11 tax rebate is fulfilling the purposes for which it was created.  
12 Recommendations for amending or repealing the business tax  
13 rebate based on the analysis shall be included in the report.

14 L. As used in this section:

15 (1) "business" means a for-profit corporation  
16 that is required to pay corporate income and franchise taxes  
17 pursuant to the Corporate Income and Franchise Tax Act;

18 (2) "new business" means a corporation:

19 (a) that operates a business in New  
20 Mexico that owns or leases real property as a physical address  
21 for the business in New Mexico and employs personnel at that  
22 physical address;

23 (b) that is required to pay tax pursuant  
24 to the Corporate Income and Franchise Tax Act; and

25 (c) that began business operations on or

1 after July 1, 2012; and

2 (3) "wages" means all remuneration in cash and  
3 the cash value of remuneration paid in any other form for  
4 services performed by an employee for an employer; "wages"  
5 includes the value of benefits."

6 SECTION 2. APPLICABILITY.--The provisions of this act  
7 apply to:

8 A. taxable years beginning on or after January 1,  
9 2013 and not after December 31, 2020; and

10 B. businesses relocating to or beginning operation  
11 in New Mexico or beginning to upgrade or existing businesses  
12 that begin to re-equip or renovate facilities on or after  
13 January 1, 2013.

14 SECTION 3. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is January 1, 2013.