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AN ACT

RELATING TO TAXATION; REDUCING A DISTRIBUTION TO THE
LEGISLATIVE RETIREMENT FUND; PROVIDING A CIVIL PENALTY IF A
TAXPAYER FAILS TO CORRECTLY FILE FOR A GROSS RECEIPTS
DEDUCTION PURSUANT TO SECTION 7-9-92 NMSA 1978 (BEING LAWS
2004, CHAPTER 116, SECTION 5) OR SECTION 7-9-93 NMSA 1978
(BEING LAWS 2004, CHAPTER 116, SECTION 6, AS AMENDED);
CLARIFYING THE TYPE OF HEALTH CARE PROVIDER THAT MAY TAKE
CERTAIN GROSS RECEIPTS TAX DEDUCTIONS FOR MEDICAL AND HEALTH
CARE SERVICES; PROVIDING ADDITIONAL REQUIREMENTS TO BE
ELIGIBLE TO CLAIM A HIGH-WAGE JOBS TAX CREDIT; EXCLUDING
BENEFITS FROM CALCULATION OF THE CREDIT AMOUNT; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.

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

SECTION 1. Section 7-1-6.43 NMSA 1978 (being Laws 2003,
Chapter 86, Section 1) is amended to read:

"7-1-6.43. DISTRIBUTION TO LEGISLATIVE RETIREMENT
FUND.--

A. A distribution pursuant to Section 7-1-6.1
NMSA 1978 shall be made to the legislative retirement fund in
an amount equal to seventy-five thousand dollars (\$75,000)
or, if larger, one-twelfth of the amount necessary to pay out
the retirement benefits due under state legislator member
coverage plan 2 and Paragraph (2) of Subsection C of

1 Section 10-11-41 NMSA 1978 for the calendar year.

2 B. In December 2003 and in each December
3 thereafter, the public employees retirement association, with
4 the assistance of the legislative council service, shall
5 determine the amount of those retirement benefits for the
6 succeeding calendar year. If the monthly average exceeds
7 seventy-five thousand dollars (\$75,000), the association
8 shall notify immediately the department of the average
9 amount. That average amount shall be the amount distributed
10 pursuant to Subsection A of this section as of the end of
11 each month of the twelve consecutive months beginning with
12 the December in which the determination was made."

13 SECTION 2. Section 7-1-68 NMSA 1978 (being Laws 1965,
14 Chapter 248, Section 69, as amended) is amended to read:

15 "7-1-68. INTEREST ON OVERPAYMENTS.--

16 A. As provided in this section, interest shall be
17 allowed and paid on the amount of tax overpaid by a person
18 that is subsequently refunded or credited to that person.

19 B. Interest on overpayments of tax shall accrue
20 and be paid at the underpayment rate established pursuant to
21 Section 6621 of the Internal Revenue Code, computed on a
22 daily basis; provided that if a different rate is specified
23 by a compact or other interstate agreement to which
24 New Mexico is a party, that rate shall apply to amounts due
25 under the compact or other agreement.

1 C. Unless otherwise provided by this section,
2 interest on an overpayment not arising from an assessment by
3 the department shall be paid from the date of the claim for
4 refund until a date preceding by not more than thirty days
5 the date of the credit or refund to any person; and interest
6 on an overpayment arising from an assessment by the
7 department shall be paid from the date of overpayment until a
8 date preceding by not more than thirty days the date of the
9 credit or refund to any person.

10 D. No interest shall be allowed or paid with
11 respect to an amount credited or refunded if:

12 (1) the amount of interest due is less than
13 one dollar (\$1.00);

14 (2) the credit or refund is made within:

15 (a) fifty-five days of the date of the
16 claim for refund of income tax, pursuant to either the Income
17 Tax Act or the Corporate Income and Franchise Tax Act for the
18 tax year immediately preceding the tax year in which the
19 claim is made;

20 (b) sixty days of the date of the claim
21 for refund of any tax not provided for in this paragraph;

22 (c) seventy-five days of the date of
23 the claim for refund of gasoline tax to users of gasoline off
24 the highways;

25 (d) one hundred twenty days of the date

1 of the claim for refund of tax imposed pursuant to the
2 Resources Excise Tax Act, the Severance Tax Act, the Oil and
3 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
4 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
5 Valorem Production Tax Act, the Natural Gas Processors Tax
6 Act or the Oil and Gas Production Equipment Ad Valorem Tax
7 Act; or

8 (e) one hundred twenty days of the date
9 of the claim for refund of income tax, pursuant to the Income
10 Tax Act or the Corporate Income and Franchise Tax Act, for
11 any tax year more than one year prior to the year in which
12 the claim is made;

13 (3) Sections 6611(f) and 6611(g) of the
14 Internal Revenue Code, as those sections may be amended or
15 renumbered, prohibit payment of interest for federal income
16 tax purposes;

17 (4) the credit results from overpayments
18 found in an audit of multiple reporting periods and applied
19 to underpayments found in that audit or refunded as a net
20 overpayment to the taxpayer pursuant to Section 7-1-29 NMSA
21 1978;

22 (5) the department applies the credit or
23 refund to an intercept program, to the taxpayer's estimated
24 payment prior to the due date for the estimated payment or to
25 offset prior liabilities of the taxpayer pursuant to

1 Subsection E of Section 7-1-29 NMSA 1978;

2 (6) the credit or refund results from
3 overpayments the department finds pursuant to Subsection F of
4 Section 7-1-29 NMSA 1978 that exceed the refund claimed by
5 the taxpayer on the return; or

6 (7) the refund results from a tax credit
7 pursuant to the Film Production Tax Credit Act or a high-wage
8 jobs tax credit.

9 E. Nothing in this section shall be construed to
10 require the payment of interest upon interest."

11 SECTION 3. A new section of the Tax Administration Act
12 is enacted to read:

13 "CIVIL PENALTY FOR FAILURE TO CORRECTLY FILE CERTAIN
14 DEDUCTIONS.--In the case of a taxpayer that deducts gross
15 receipts pursuant to Section 7-9-92 or 7-9-93 NMSA 1978
16 instead of deducting or exempting gross receipts pursuant to
17 another applicable provision of the Gross Receipts and
18 Compensating Tax Act as required by those sections, there
19 shall be assessed a penalty on the taxpayer in an amount
20 equal to twenty percent of the value of the hold harmless
21 distribution resulting from the incorrect deduction."

22 SECTION 4. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
23 Chapter 96, Section 1, as amended) is amended to read:

24 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN
25 MEDICAL AND HEALTH CARE SERVICES.--

1 A. Receipts of a health care practitioner from
2 payments by the United States government or any agency
3 thereof for provision of medical and other health services by
4 a health care practitioner or of medical or other health and
5 palliative services by hospices or nursing homes to medicare
6 beneficiaries pursuant to the provisions of Title 18 of the
7 federal Social Security Act may be deducted from gross
8 receipts.

9 B. Receipts of a health care practitioner from
10 payments by a third-party administrator of the federal
11 TRICARE program for provision of medical and other health
12 services by medical doctors and osteopathic physicians to
13 covered beneficiaries may be deducted from gross receipts.

14 C. Receipts of a health care practitioner from
15 payments by or on behalf of the Indian health service of the
16 United States department of health and human services for
17 provision of medical and other health services by medical
18 doctors and osteopathic physicians to covered beneficiaries
19 may be deducted from gross receipts.

20 D. Receipts of a clinical laboratory from payments
21 by the United States government or any agency thereof for
22 medical services provided by the clinical laboratory to
23 medicare beneficiaries pursuant to the provisions of Title 18
24 of the federal Social Security Act may be deducted from gross
25 receipts.

1 E. Receipts of a home health agency from payments
2 by the United States government or any agency thereof for
3 medical, other health and palliative services provided by the
4 home health agency to medicare beneficiaries pursuant to the
5 provisions of Title 18 of the federal Social Security Act may
6 be deducted from gross receipts.

7 F. Prior to July 1, 2024, receipts of a dialysis
8 facility from payments by the United States government or any
9 agency thereof for medical and other health services provided
10 by the dialysis facility to medicare beneficiaries pursuant
11 to the provisions of Title 18 of the federal Social Security
12 Act may be deducted from gross receipts.

13 G. A taxpayer allowed a deduction pursuant to this
14 section shall report the amount of the deduction separately
15 in a manner required by the department. A taxpayer who has
16 receipts that are deductible pursuant to this section and
17 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
18 section prior to calculating the receipts that may be
19 deducted pursuant to Section 7-9-93 NMSA 1978.

20 H. The department shall compile an annual report
21 on the deductions created pursuant to this section that shall
22 include the number of taxpayers approved by the department to
23 receive each deduction, the aggregate amount of deductions
24 approved and any other information necessary to evaluate the
25 effectiveness of the deductions. The department shall

1 compile and present the annual reports to the revenue
2 stabilization and tax policy committee and the legislative
3 finance committee with an analysis of the effectiveness and
4 cost of the deductions and whether the deductions are
5 providing a benefit to the state.

6 I. For the purposes of this section:

7 (1) "clinical laboratory" means a laboratory
8 accredited pursuant to 42 USCA 263a;

9 (2) "dialysis facility" means an end-stage
10 renal disease facility as defined pursuant to 42 C.F.R.
11 405.2102;

12 (3) "health care practitioner" means:

13 (a) an athletic trainer licensed
14 pursuant to the Athletic Trainer Practice Act;

15 (b) an audiologist licensed pursuant to
16 the Speech-Language Pathology, Audiology and Hearing Aid
17 Dispensing Practices Act;

18 (c) a chiropractic physician licensed
19 pursuant to the Chiropractic Physician Practice Act;

20 (d) a counselor or therapist
21 practitioner licensed pursuant to the Counseling and Therapy
22 Practice Act;

23 (e) a dentist licensed pursuant to the
24 Dental Health Care Act;

25 (f) a doctor of oriental medicine

1 licensed pursuant to the Acupuncture and Oriental Medicine
2 Practice Act;

3 (g) an independent social worker
4 licensed pursuant to the Social Work Practice Act;

5 (h) a massage therapist licensed
6 pursuant to the Massage Therapy Practice Act;

7 (i) a naprapath licensed pursuant to
8 the Naprapathic Practice Act;

9 (j) a nutritionist or dietitian
10 licensed pursuant to the Nutrition and Dietetics Practice
11 Act;

12 (k) an occupational therapist licensed
13 pursuant to the Occupational Therapy Act;

14 (l) an optometrist licensed pursuant to
15 the Optometry Act;

16 (m) an osteopathic physician licensed
17 pursuant to the Osteopathic Medicine Act;

18 (n) a pharmacist licensed pursuant to
19 the Pharmacy Act;

20 (o) a physical therapist licensed
21 pursuant to Physical Therapy Act;

22 (p) a physician licensed pursuant to
23 the Medical Practice Act;

24 (q) a podiatrist licensed pursuant to
25 the Podiatry Act;

1 (r) a psychologist licensed pursuant to
2 the Professional Psychologist Act;

3 (s) a radiologic technologist licensed
4 pursuant to the Medical Imaging and Radiation Therapy Health
5 and Safety Act;

6 (t) a registered nurse licensed
7 pursuant to the Nursing Practice Act;

8 (u) a respiratory care practitioner
9 licensed pursuant to the Respiratory Care Act; and

10 (v) a speech-language pathologist
11 licensed pursuant to the Speech-Language Pathology, Audiology
12 and Hearing Aid Dispensing Practices Act;

13 (4) "home health agency" means a for-profit
14 entity that is licensed by the department of health and
15 certified by the federal centers for medicare and medicaid
16 services as a home health agency and certified to provide
17 medicare services;

18 (5) "hospice" means a for-profit entity
19 licensed by the department of health as a hospice and
20 certified to provide medicare services;

21 (6) "nursing home" means a for-profit entity
22 licensed by the department of health as a nursing home and
23 certified to provide medicare services; and

24 (7) "TRICARE program" means the program
25 defined in 10 U.S.C. 1072(7)."

1 SECTION 5. Section 7-9-93 NMSA 1978 (being Laws 2004,
2 Chapter 116, Section 6, as amended) is amended to read:

3 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS
4 FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

5 A. Receipts of a health care practitioner for
6 commercial contract services or medicare part C services paid
7 by a managed health care provider or health care insurer may
8 be deducted from gross receipts if the services are within
9 the scope of practice of the health care practitioner
10 providing the service. Receipts from fee-for-service
11 payments by a health care insurer may not be deducted from
12 gross receipts.

13 B. The deduction provided by this section shall be
14 applied only to gross receipts remaining after all other
15 allowable deductions available under the Gross Receipts and
16 Compensating Tax Act have been taken and shall be separately
17 stated by the taxpayer.

18 C. For the purposes of this section:

19 (1) "commercial contract services" means
20 health care services performed by a health care practitioner
21 pursuant to a contract with a managed health care provider or
22 health care insurer other than those health care services
23 provided for medicare patients pursuant to Title 18 of the
24 federal Social Security Act or for medicaid patients pursuant
25 to Title 19 or Title 21 of the federal Social Security Act;

1 (2) "health care insurer" means a person
2 that:

3 (a) has a valid certificate of
4 authority in good standing pursuant to the New Mexico
5 Insurance Code to act as an insurer, health maintenance
6 organization or nonprofit health care plan or prepaid dental
7 plan; and

8 (b) contracts to reimburse licensed
9 health care practitioners for providing basic health services
10 to enrollees at negotiated fee rates;

11 (3) "health care practitioner" means:

12 (a) a chiropractic physician licensed
13 pursuant to the provisions of the Chiropractic Physician
14 Practice Act;

15 (b) a dentist or dental hygienist
16 licensed pursuant to the Dental Health Care Act;

17 (c) a doctor of oriental medicine
18 licensed pursuant to the provisions of the Acupuncture and
19 Oriental Medicine Practice Act;

20 (d) an optometrist licensed pursuant to
21 the provisions of the Optometry Act;

22 (e) an osteopathic physician or an
23 osteopathic physician's assistant licensed pursuant to the
24 provisions of the Osteopathic Medicine Act;

25 (f) a physical therapist licensed

1 pursuant to the provisions of the Physical Therapy Act;

2 (g) a physician or physician assistant
3 licensed pursuant to the provisions of the Medical Practice
4 Act;

5 (h) a podiatrist licensed pursuant to
6 the provisions of the Podiatry Act;

7 (i) a psychologist licensed pursuant to
8 the provisions of the Professional Psychologist Act;

9 (j) a registered lay midwife registered
10 by the department of health;

11 (k) a registered nurse or licensed
12 practical nurse licensed pursuant to the provisions of the
13 Nursing Practice Act;

14 (l) a registered occupational therapist
15 licensed pursuant to the provisions of the Occupational
16 Therapy Act;

17 (m) a respiratory care practitioner
18 licensed pursuant to the provisions of the Respiratory Care
19 Act;

20 (n) a speech-language pathologist or
21 audiologist licensed pursuant to the Speech-Language
22 Pathology, Audiology and Hearing Aid Dispensing Practices
23 Act;

24 (o) a professional clinical mental
25 health counselor, marriage and family therapist or

1 professional art therapist licensed pursuant to the
2 provisions of the Counseling and Therapy Practice Act who has
3 obtained a master's degree or a doctorate;

4 (p) an independent social worker
5 licensed pursuant to the provisions of the Social Work
6 Practice Act; and

7 (q) a clinical laboratory that is
8 accredited pursuant to 42 U.S.C. Section 263a but that is not
9 a laboratory in a physician's office or in a hospital defined
10 pursuant to 42 U.S.C. Section 1395x;

11 (4) "managed health care provider" means a
12 person that provides for the delivery of comprehensive basic
13 health care services and medically necessary services to
14 individuals enrolled in a plan through its own employed
15 health care providers or by contracting with selected or
16 participating health care providers. "Managed health care
17 provider" includes only those persons that provide
18 comprehensive basic health care services to enrollees on a
19 contract basis, including the following:

20 (a) health maintenance organizations;

21 (b) preferred provider organizations;

22 (c) individual practice associations;

23 (d) competitive medical plans;

24 (e) exclusive provider organizations;

25 (f) integrated delivery systems;

1 (g) independent physician-provider
2 organizations;

3 (h) physician hospital-provider
4 organizations; and

5 (i) managed care services
6 organizations; and

7 (5) "medicare part C services" means
8 services performed pursuant to a contract with a managed
9 health care provider for medicare patients pursuant to Title
10 18 of the federal Social Security Act."

11 SECTION 6. Section 7-9G-1 NMSA 1978 (being Laws 2004,
12 Chapter 15, Section 1, as amended) is amended to read:

13 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING
14 HIGH-WAGE JOBS.--

15 A. A taxpayer who is an eligible employer may
16 apply for, and the department may allow, a tax credit for
17 each new high-wage economic-based job. The credit provided
18 in this section may be referred to as the "high-wage jobs tax
19 credit".

20 B. The purpose of the high-wage jobs tax credit is
21 to provide an incentive for urban and rural businesses to
22 create and fill new high-wage economic-based jobs in
23 New Mexico.

24 C. The high-wage jobs tax credit may be claimed
25 and allowed in an amount equal to ten percent of the wages

1 distributed to an eligible employee in a new high-wage
2 economic-based job, but shall not exceed twelve thousand
3 dollars (\$12,000) per job per qualifying period. The high-
4 wage jobs tax credit may be claimed by an eligible employer
5 for each new high-wage economic-based job performed for the
6 year in which the new high-wage economic-based job is created
7 and for the three consecutive qualifying periods as provided
8 in this section.

9 D. To receive a high-wage jobs tax credit, a
10 taxpayer shall file an application for approval of the credit
11 with the department once per calendar year on forms and in
12 the manner prescribed by the department. The annual
13 application shall contain the certification required by
14 Subsection K of this section and shall contain all qualifying
15 periods that closed during the calendar year for which the
16 application is made. Any qualifying period that did not
17 close in the calendar year for which the application is made
18 shall be denied by the department. The application for a
19 calendar year shall be filed no later than December 31 of the
20 following calendar year. If a taxpayer fails to file the
21 annual application within the time limits provided in this
22 section, the application shall be denied by the department.
23 The department shall make a determination on the application
24 within one hundred eighty days of the date on which the
25 application was filed; provided that the one-hundred-eighty-

1 day period shall not begin until the application is complete,
2 as determined by the department.

3 E. A new high-wage economic-based job shall not be
4 eligible for a credit pursuant to this section for the
5 initial qualifying period unless the eligible employer's
6 total number of employees with threshold jobs on the last day
7 of the initial qualifying period at the location at which the
8 job is performed or based is at least one more than the
9 number of threshold jobs on the day prior to the date the new
10 high-wage economic-based job was created. A new high-wage
11 economic-based job shall not be eligible for a credit
12 pursuant to this section for a consecutive qualifying period
13 unless the total number of threshold jobs at a location at
14 which the job is performed or based on the last day of that
15 qualifying period is greater than or equal to the number of
16 threshold jobs at that same location on the last day of the
17 initial qualifying period for the new high-wage
18 economic-based job.

19 F. Any consecutive qualifying period for a new
20 high-wage economic-based job shall not be eligible for a
21 credit pursuant to this section unless the wage, the forty-
22 eight-week occupancy and the residency requirements for a new
23 high-wage economic-based job are met for each consecutive
24 qualifying period. If any consecutive qualifying period for
25 a new high-wage economic-based job does not meet the wage,

1 the forty-eight-week occupancy and the residency
2 requirements, all subsequent qualifying periods are
3 ineligible.

4 G. Except as provided in Subsection H of this
5 section, a new high-wage economic-based job shall not be
6 eligible for a credit pursuant to this section if:

7 (1) the new high-wage economic-based job is
8 created due to a business merger or acquisition or other
9 change in business organization;

10 (2) the eligible employee was terminated
11 from employment in New Mexico by another employer involved in
12 the business merger or acquisition or other change in
13 business organization with the taxpayer; and

14 (3) the new high-wage economic-based job is
15 performed by:

16 (a) the person who performed the job or
17 its functional equivalent prior to the business merger or
18 acquisition or other change in business organization; or

19 (b) a person replacing the person who
20 performed the job or its functional equivalent prior to a
21 business merger or acquisition or other change in business
22 organization.

23 H. A new high-wage economic-based job that was
24 created by another employer and for which an application for
25 the high-wage jobs tax credit was received and is under

1 review by the department prior to the time of the business
2 merger or acquisition or other change in business
3 organization shall remain eligible for the high-wage jobs tax
4 credit for the balance of the consecutive qualifying periods.
5 The new employer that results from a business merger or
6 acquisition or other change in business organization may only
7 claim the high-wage jobs tax credit for the balance of the
8 consecutive qualifying periods for which the new high-wage
9 economic-based job is otherwise eligible.

10 I. A new high-wage economic-based job shall not be
11 eligible for a credit pursuant to this section if the job is
12 created due to an eligible employer entering into a contract
13 or becoming a subcontractor to a contract with a governmental
14 entity that replaces one or more entities performing
15 functionally equivalent services for the governmental entity
16 unless the job is a new high-wage economic-based job that was
17 not being performed by an employee of the replaced entity.

18 J. A new high-wage economic-based job shall not be
19 eligible for a credit pursuant to this section if the
20 eligible employer has more than one business location in
21 New Mexico from which it conducts business and the
22 requirements of Subsection E of this section are satisfied
23 solely by moving the job from one business location of the
24 eligible employer in New Mexico to another business location
25 of the eligible employer in New Mexico.

1 K. With respect to each annual application for a
2 high-wage jobs tax credit, the employer shall certify and
3 include:

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

7 (2) the number of weeks each position was
8 occupied during the qualifying period;

9 (3) whether the new high-wage economic-based
10 job was in a municipality with a population of sixty thousand
11 or more or with a population of less than sixty thousand
12 according to the most recent federal decennial census and
13 whether the job was in the unincorporated area of a county;

14 (4) whether the application pertains to the
15 first, second, third or fourth qualifying period for each
16 eligible employee;

17 (5) the total number of employees employed
18 by the employer at the job location on the day prior to the
19 qualifying period and on the last day of the qualifying
20 period;

21 (6) the total number of threshold jobs
22 performed or based at the eligible employer's location on the
23 day prior to the qualifying period and on the last day of the
24 qualifying period;

25 (7) for an eligible employer that has more

1 than one business location in New Mexico from which it
2 conducts business, the total number of threshold jobs
3 performed or based at each business location of the eligible
4 employer in New Mexico on the day prior to the qualifying
5 period and on the last day of the qualifying period;

6 (8) whether the eligible employer is
7 receiving or is eligible to receive development training
8 program assistance pursuant to Section 21-19-7 NMSA 1978;

9 (9) whether the eligible employer has ceased
10 business operations at any of its business locations in New
11 Mexico; and

12 (10) whether the application is precluded by
13 Subsection O of this section.

14 L. Any person who willfully submits a false,
15 incorrect or fraudulent certification required pursuant to
16 Subsection K of this section shall be subject to all
17 applicable penalties under the Tax Administration Act, except
18 that the amount on which the penalty is based shall be the
19 total amount of credit requested on the application for
20 approval.

21 M. Except as provided in Subsection N of this
22 section, an approved high-wage jobs tax credit shall be
23 claimed against the taxpayer's modified combined tax
24 liability and shall be filed with the return due immediately
25 following the date of the credit approval. If the credit

1 exceeds the taxpayer's modified combined tax liability, the
2 excess shall be refunded to the taxpayer.

3 N. If the taxpayer ceases business operations in
4 New Mexico while an application for credit approval is
5 pending or after an application for credit has been approved
6 for any qualifying period for a new high-wage economic-based
7 job, the department shall not grant an additional high-wage
8 jobs tax credit to that taxpayer, except as provided in
9 Subsection O of this section, and shall extinguish any amount
10 of credit approved for that taxpayer that has not already
11 been claimed against the taxpayer's modified combined tax
12 liability.

13 O. A taxpayer that has received a high-wage jobs
14 tax credit shall not submit a new application for a credit
15 for a minimum of five calendar years from the closing date of
16 the last qualifying period for which the taxpayer received
17 the credit if the taxpayer:

18 (1) lost eligibility to claim a tax credit
19 from a previous application pursuant to Subsection E or N of
20 this section; or

21 (2) reduces its total full-time employees in
22 New Mexico by more than five percent after the date on which
23 the last qualifying period on the taxpayer's previous
24 application ends.

25 P. The economic development department and the

1 taxation and revenue department shall report to the
2 appropriate interim legislative committee each year the cost
3 of this tax credit to the state and its impact on company
4 recruitment and job creation.

5 Q. As used in this section:

6 (1) "benefits" means all remuneration for
7 work performed that is provided to an employee in whole or in
8 part by the employer, other than wages, including the
9 employer's contributions to insurance programs, health care,
10 medical, dental and vision plans, life insurance, employer
11 contributions to pensions, such as a 401(k), and employer-
12 provided services, such as child care, offered by an employer
13 to the employee;

14 (2) "consecutive qualifying periods" means
15 the three qualifying periods successively following the
16 qualifying period in which the new high-wage economic-based
17 job was created;

18 (3) "department" means the taxation and
19 revenue department;

20 (4) "domicile" means the sole place where an
21 individual has a true, fixed, permanent home. It is the
22 place where the individual has a voluntary, fixed habitation
23 of self and family with the intention of making a permanent
24 home;

25 (5) "eligible employee" means an individual

1 who is employed in New Mexico by an eligible employer and who
2 is a resident of New Mexico; "eligible employee" does not
3 include an individual who:

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

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

19 (c) is a dependent, as that term is
20 described in 26 U.S.C. Section 152(a)(9), of the employer or,
21 if the taxpayer is a corporation, of an individual who owns,
22 directly or indirectly, more than fifty percent in value of
23 the outstanding stock of the corporation or, if the employer
24 is an entity other than a corporation, of an individual who
25 owns, directly or indirectly, more than fifty percent of the

1 capital and profits interest in the entity or, if the
2 employer is an estate or trust, of a grantor, beneficiary or
3 fiduciary of the estate or trust; or

4 (d) is working or has worked as an
5 employee or as an independent contractor for an entity that,
6 directly or indirectly, owns stock in a corporation of the
7 eligible employer or other interest of the eligible employer
8 that represents fifty percent or more of the total voting
9 power of that entity or has a value equal to fifty percent or
10 more of the capital and profits interest in the entity;

11 (6) "eligible employer" means an employer
12 that:

13 (a) sold and delivered more than fifty
14 percent of its goods produced in New Mexico or non-retail
15 services performed in New Mexico to persons outside
16 New Mexico for use or resale outside New Mexico during the
17 applicable qualifying period; provided that the fifty percent
18 of those goods or services is measured by the eligible
19 employer's gross receipts;

20 (b) is receiving or is eligible to
21 receive development training program assistance pursuant to
22 Section 21-19-7 NMSA 1978 during the applicable qualifying
23 period; and

24 (c) whose principal business activities
25 at the location in New Mexico for which the high-wage jobs

1 tax credit is being claimed consist of manufacturing or
2 performing non-retail services during the applicable
3 qualifying period;

4 (7) "for use or resale outside New Mexico"
5 means that the person who purchases the eligible employer's
6 goods or services uses or resells the goods or services
7 outside New Mexico or makes initial use of the goods or
8 services outside New Mexico. If the purchaser conducts
9 business in multiple states, goods and services are deemed
10 for use or resale outside New Mexico, unless New Mexico is
11 the primary market for the purchaser's goods or services;

12 (8) "full-time employee" means an employee
13 who works for the same employer an average of at least
14 thirty-two hours per week for at least forty-eight weeks per
15 year;

16 (9) "manufacturing" means "manufacturing" as
17 that term is used in Section 7-9A-3 NMSA 1978;

18 (10) "modified combined tax liability" means
19 the total liability for the reporting period for the gross
20 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
21 any tax collected at the same time and in the same manner as
22 the gross receipts tax, such as the compensating tax, the
23 withholding tax, the interstate telecommunications gross
24 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
25 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,

1 minus the amount of any credit other than the high-wage jobs
2 tax credit applied against any or all of these taxes or
3 surcharges; but "modified combined tax liability" excludes
4 all amounts collected with respect to local option gross
5 receipts taxes;

6 (11) "new high-wage economic-based job"
7 means a new job created in New Mexico by an eligible employer
8 on or after July 1, 2004 and prior to July 1, 2020 that is
9 occupied for at least forty-eight weeks of a qualifying
10 period by an eligible employee who is paid wages calculated
11 for the qualifying period to be at least:

12 (a) for a new high-wage economic-based
13 job created prior to July 1, 2015: 1) forty thousand dollars
14 (\$40,000) if the job is performed or based in or within ten
15 miles of the external boundaries of a municipality with a
16 population of sixty thousand or more according to the most
17 recent federal decennial census or in a class H county; and
18 2) twenty-eight thousand dollars (\$28,000) if the job is
19 performed or based in a municipality with a population of
20 less than sixty thousand according to the most recent federal
21 decennial census or in the unincorporated area, that is not
22 within ten miles of the external boundaries of a municipality
23 with a population of sixty thousand or more, of a county
24 other than a class H county; and

25 (b) for a new high-wage economic-based

1 job created on or after July 1, 2015: 1) sixty thousand
2 dollars (\$60,000) if the job is performed or based in or
3 within ten miles of the external boundaries of a municipality
4 with a population of sixty thousand or more according to the
5 most recent federal decennial census or in a class H county;
6 and 2) forty thousand dollars (\$40,000) if the job is
7 performed or based in a municipality with a population of
8 less than sixty thousand according to the most recent federal
9 decennial census or in the unincorporated area, that is not
10 within ten miles of the external boundaries of a municipality
11 with a population of sixty thousand or more, of a county
12 other than a class H county;

13 (12) "non-retail service" means a
14 specialized service, excluding a construction service of any
15 type, that is sold to another business or business entity and
16 is used by the business or business entity to develop
17 products for or deliver services to its customers. "Non-
18 retail service" is not provided by direct individual-to-
19 individual interaction and is not offered to the general
20 public by the business or business entity. "Non-retail
21 service" includes:

22 (a) research, development, engineering
23 and testing services performed for a manufacturer that uses
24 the product of the service to develop new or improve existing
25 products;

1 (b) software and software application
2 development services performed for a business;

3 (c) data processing and hosting
4 services performed for a business that uses the service to
5 deliver products or service to its own customers;

6 (d) digital film production services
7 and post-film production services performed for a business
8 that will market the digital product or film;

9 (e) customer or call center services
10 performed for a business, if those services do not support
11 retail activities of the eligible employer; and

12 (f) professional services, such as
13 accounting, engineering, legal and information technology
14 services, if the eligible employer does not offer those
15 services for sale to the general public;

16 (13) "performed in New Mexico" means that
17 the labor, activities, property and equipment necessary to
18 complete, but not to deliver, a service all occur or are
19 utilized within New Mexico;

20 (14) "produced in New Mexico" means the
21 creation, bringing into existence or making available a good
22 or product for commercial sale through the expense of labor
23 or capital, or both, within New Mexico;

24 (15) "qualifying period" means the period of
25 twelve months beginning on the day an eligible employee

1 begins working in a new high-wage economic-based job or the
2 period of twelve months beginning on the anniversary of the
3 day an eligible employee began working in a new high-wage
4 economic-based job;

5 (16) "resident" means a natural person whose
6 domicile is in New Mexico at the time of hire or within one
7 hundred eighty days of the date of hire;

8 (17) "threshold job" means a job that is
9 occupied for at least forty-eight weeks of a calendar year by
10 an eligible employee and that meets the wage requirements for
11 a "new high-wage economic-based job"; and

12 (18) "wages" means all compensation paid by
13 an eligible employer to an eligible employee through the
14 employer's payroll system, including those wages that the
15 employee elects to defer or redirect or the employee's
16 contribution to a 401(k) or cafeteria plan program, but
17 "wages" does not include benefits or the employer's share of
18 payroll taxes, social security or medicare contributions,
19 federal or state unemployment insurance contributions or
20 workers' compensation."

21 SECTION 7. APPROPRIATION.--One million five hundred
22 thousand dollars (\$1,500,000) is appropriated from the
23 general fund to the children, youth and families department
24 for expenditure in fiscal year 2017 and subsequent fiscal
25 years ~~to support home visiting services~~ for the prevention of

1 child abuse. Any unexpended or unencumbered balance
2 remaining at the end of a fiscal year shall not revert to the
3 general fund.

4 SECTION 8. APPLICABILITY.--The provisions of Section 6
5 of this act apply to applications for a high-wage jobs tax
6 credit for a new high-wage economic-based job filed with the
7 taxation and revenue department on or after January 1, 2017.

8 SECTION 9. EFFECTIVE DATE.--

9 A. If this act takes effect on or before
10 October 1, 2016, the effective date of the provisions of
11 Sections 3 through 5 of this act is October 1, 2016.

12 B. If this act takes effect after October 1, 2016,
13 the effective date of the provisions of Sections 3 through 5
14 of this act is the first day of the month following the date
15 this act takes effect.

16 SECTION 10. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect
18 immediately. _____

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