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HOUSE BILL 837

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

John A. Heaton

AN ACT

**RELATING TO TAXATION; MODIFYING THE QUALIFYING JOB
REQUIREMENTS FOR ELIGIBILITY FOR THE RURAL JOB TAX CREDIT;
AMENDING A SECTION OF THE NMSA 1978.**

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) 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
amount with respect to each qualifying job is equal to:**

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

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

9 B. As used in this section:

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

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

21 (b) if the employer is an estate or
22 trust, is a grantor, beneficiary or fiduciary of the estate or
23 trust or is an individual who bears any of the relationships
24 described in Paragraphs (1) through (8) of 26 U. S. C. Section
25 152(a) to a grantor, beneficiary or fiduciary of the estate or

1 trust; or

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

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

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

18 (4) "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 that 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,

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

6 (5) "qualifying job" means a job established
7 by the employer that

8 [~~(a) qualifies for in-plant training~~
9 ~~assistance; and~~

10 ~~(b)]~~ is occupied by an eligible
11 employee for at least forty-eight weeks of a qualifying
12 period;

13 (6) "qualifying period" means the period of
14 twelve months beginning on the day an eligible employee begins
15 working in a qualifying job or the period of twelve months
16 beginning on the anniversary of the day an eligible employee
17 began working in a qualifying job;

18 (7) "rural area" means any part of the state
19 other than:

- 20 (a) an H class county;
- 21 (b) the state fairgrounds;
- 22 (c) an incorporated municipality within
23 a metropolitan statistical area if the municipality's
24 population is thirty thousand or more according to the most
25 recent federal decennial census; and

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1 (d) any area within ten miles of the
2 exterior boundaries of a municipality described in
3 Subparagraph (c) of this paragraph;

4 (8) "tier one area" means:

5 (a) any municipality within the rural
6 area if the municipality's population according to the most
7 recent federal decennial census is fifteen thousand or less;
8 or

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

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

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

17 C. The amount of the rural job tax credit shall be
18 six and one-fourth percent of the first sixteen thousand
19 dollars (\$16,000) in wages paid for the qualifying job in a
20 qualifying period. The rural job tax credit may be claimed
21 for each qualifying job for a maximum of:

22 (1) four qualifying periods for each
23 qualifying job performed or based at a location in a tier one
24 area; and

25 (2) two qualifying periods for each

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1 qualifying job performed or based at a location in a tier two
2 area.

3 D. With respect to each qualifying job for which
4 an eligible employer seeks the rural job tax credit, the
5 employer shall ~~[request the economic development department~~
6 ~~to]~~ certify the amount of wages paid to each eligible employee
7 during each qualifying period, the number of weeks during the
8 qualifying period the position was occupied and whether the
9 qualifying job was in a tier one or tier two area. ~~[The~~
10 ~~economic development department may require the employer to~~
11 ~~submit such information as is necessary for the economic~~
12 ~~development department to make the certification requested.~~
13 ~~When the economic development department obtains sufficient~~
14 ~~information, either from its own records or from the employer,~~
15 ~~the economic development department shall make the~~
16 ~~certification requested.]~~

17 E. The economic development department shall
18 determine which employers are eligible employers and shall
19 report the listing of eligible businesses to the taxation and
20 revenue department in a manner and at times the departments
21 shall agree upon.

22 F. To receive a rural job tax credit with respect
23 to any qualifying period, an eligible employer must apply to
24 the taxation and revenue department on forms and in the manner
25 the department may prescribe. The application shall include a

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1 [copy of the] certification [~~from the economic development~~
2 ~~department~~] made pursuant to Subsection D of this section. If
3 all the requirements of this section have been complied with,
4 the taxation and revenue department may issue to the applicant
5 a document granting a tax credit for the respective qualifying
6 period. The tax credit document shall be numbered for
7 identification and declare its date of issuance and the amount
8 of rural job tax credit allowed for the respective jobs
9 created. Such tax credit documents may be sold, exchanged or
10 otherwise transferred and can be carried forward for a period
11 of three years from the date of issuance. The parties to such
12 a transaction shall notify the department of the sale,
13 exchange or transfer within ten days of the sale, exchange or
14 transfer.

15 G. The holder of the tax credit document may apply
16 all or a portion of the rural job tax credit granted by the
17 document against the holder's modified combined tax liability,
18 personal income tax liability or corporate income tax
19 liability. Any balance of rural job tax credit granted by the
20 document may be carried forward for up to three years from the
21 date of issuance of the tax credit document. No amount of
22 rural job tax credit may be applied against a gross receipts
23 tax imposed by a municipality or county.

24 H. Notwithstanding the provisions of Section 7-1-8
25 NMSA 1978, the taxation and revenue department may disclose to

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1 any person the balance of rural job tax credit remaining on
2 any tax credit document and the balance of credit remaining on
3 that document for any period.

4 I. The secretary of economic development, the
5 secretary of taxation and revenue and the secretary of labor
6 or their designees shall annually evaluate the effectiveness
7 of the rural job tax credit in stimulating economic
8 development in the rural areas of New Mexico and make a joint
9 report of their findings to each session of the legislature so
10 long as the rural job tax credit is in effect."

11 Section 2. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 2001.