

HOUSE BILL 368

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Joshua N. Hernandez and Meredith A. Dixon

AN ACT

RELATING TO THE HIGH-WAGE JOBS TAX CREDIT; AMENDING THE
DEFINITION OF "THRESHOLD JOB" APPLICABLE TO THE 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 that is an eligible employer may
apply for, and the department may allow, a tax credit for each
new high-wage job. The credit provided in this section may be
referred to as the "high-wage jobs tax credit".

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

.230496.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
~~[bracketed material]~~ = delete

1 C. The high-wage jobs tax credit may be claimed and
2 allowed in an amount equal to eight and one-half percent of the
3 wages distributed to an eligible employee in a new high-wage
4 job but shall not exceed twelve thousand seven hundred fifty
5 dollars (\$12,750) per job per qualifying period. The high-wage
6 jobs tax credit may be claimed by an eligible employer for each
7 new high-wage job performed for the year in which the new high-
8 wage job is created and for consecutive qualifying periods.

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 the
12 manner prescribed by the department. The annual application
13 shall contain the certification required by Subsection K of
14 this section and shall contain all qualifying periods that
15 closed during the calendar year for which the application is
16 made. Any qualifying period that did not close in the calendar
17 year for which the application is made shall be denied by the
18 department. The application for a calendar year shall be filed
19 no later than December 31 of the following calendar year. If a
20 taxpayer fails to file the annual application within the time
21 limits provided in this section, the application shall be
22 denied by the department. The department shall make a
23 determination on the application within one hundred eighty days
24 of the date on which the application was filed.

25 E. A new high-wage job shall not be eligible for a

underscoring material = new
~~[bracketed material] = delete~~

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

14 F. If a consecutive qualifying period for a new
15 high-wage job does not meet the wage, occupancy and residency
16 requirements, then the qualifying period is ineligible.

17 G. Except as provided in Subsection H of this
18 section, a new high-wage job shall not be eligible for a credit
19 pursuant to this section if:

20 (1) the new high-wage job is created due to a
21 business merger or acquisition or other change in business
22 organization;

23 (2) the eligible employee was terminated from
24 employment in New Mexico by another employer involved in the
25 business merger or acquisition or other change in business

.230496.1

1 organization with the taxpayer; and

2 (3) the new high-wage job is performed by:

3 (a) the person who performed the job or
4 its functional equivalent prior to the business merger or
5 acquisition or other change in business organization; or

6 (b) a person replacing the person who
7 performed the job or its functional equivalent prior to a
8 business merger or acquisition or other change in business
9 organization.

10 H. A new high-wage job that was created by another
11 employer and for which an application for the high-wage jobs
12 tax credit was received and is under review by the department
13 prior to the time of the business merger or acquisition or
14 other change in business organization shall remain eligible for
15 the high-wage jobs tax credit for the balance of the
16 consecutive qualifying periods. The new employer that results
17 from a business merger or acquisition or other change in
18 business organization may only claim the high-wage jobs tax
19 credit for the balance of the consecutive qualifying periods
20 for which the new high-wage job is otherwise eligible.

21 I. A new high-wage job shall not be eligible for a
22 credit pursuant to this section if the job is created due to an
23 eligible employer entering into a contract or becoming a
24 subcontractor to a contract with a governmental entity that
25 replaces one or more entities performing functionally

.230496.1

underscoring material = new
~~[bracketed material] = delete~~

1 equivalent services for the governmental entity unless the job
2 is a new high-wage job that was not being performed by an
3 employee of the replaced entity.

4 J. A new high-wage job shall not be eligible for a
5 credit pursuant to this section if the eligible employer has
6 more than one business location in New Mexico from which it
7 conducts business and the requirements of Subsection E of this
8 section are satisfied solely by moving the job from one
9 business location of the eligible employer in New Mexico to
10 another business location of the eligible employer in New
11 Mexico.

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

15 (1) the amount of wages paid to each eligible
16 employee in a new high-wage job during the qualifying period;

17 (2) the number of weeks each position was
18 occupied during the qualifying period;

19 (3) whether the new high-wage job was in a
20 municipality with a population of sixty thousand or more or
21 with a population of less than sixty thousand according to the
22 most recent federal decennial census and whether the job was in
23 the unincorporated area of a county;

24 (4) which qualifying period the application
25 pertains to for each eligible employee;

.230496.1

underscoring material = new
~~[bracketed material] = delete~~

1 (5) the total number of employees employed by
2 the employer at the job location on the day prior to the
3 qualifying period and on the last day of the qualifying period;

4 (6) the total number of threshold jobs
5 performed or based at the eligible employer's location on the
6 day prior to the qualifying period and on the last day of the
7 qualifying period;

8 (7) for an eligible employer that has more
9 than one business location in New Mexico from which it conducts
10 business, the total number of threshold jobs performed or based
11 at each business location of the eligible employer in New
12 Mexico on the day prior to the qualifying period and on the
13 last day of the qualifying period;

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

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

20 (10) whether the application is precluded by
21 Subsection O of this section.

22 L. Any person who willfully submits a false,
23 incorrect or fraudulent certification required pursuant to
24 Subsection K of this section shall be subject to all applicable
25 penalties under the Tax Administration Act, except that the

.230496.1

underscored material = new
~~[bracketed material] = delete~~

1 amount on which the penalty is based shall be the total amount
2 of credit requested on the application for approval.

3 M. Except as provided in Subsection N of this
4 section, an approved high-wage jobs tax credit shall be claimed
5 against the taxpayer's modified combined tax liability and
6 shall be filed with the return due immediately following the
7 date of the credit approval. If the credit exceeds the
8 taxpayer's modified combined tax liability, the excess shall be
9 refunded to the taxpayer.

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

19 O. A taxpayer that has received a high-wage jobs
20 tax credit shall not submit a new application for the credit
21 for a minimum of two calendar years from the closing date of
22 the last qualifying period for which the taxpayer received the
23 credit if the taxpayer lost eligibility to claim the credit
24 from a previous application pursuant to Subsection N of this
25 section.

.230496.1

underscoring material = new
~~[bracketed material] = delete~~

1 P. The economic development department and the
2 taxation and revenue department shall report to the appropriate
3 interim legislative committee each year the cost of the high-
4 wage jobs tax credit to the state and its impact on company
5 recruitment and job creation.

6 Q. As used in this section:

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

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

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

19 (4) "dependent" means "dependent" as defined
20 in 26 U.S.C. 152(a), as that section may be amended or
21 renumbered;

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

.230496.1

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

5 (a) is a dependent of the employer;

6 (b) if the employer is an estate or
7 trust, is a grantor, beneficiary or fiduciary of the estate or
8 trust or is a dependent of a grantor, beneficiary or fiduciary
9 of the estate or trust;

10 (c) if the employer is a corporation, is
11 a dependent of an individual who owns, directly or indirectly,
12 more than fifty percent in value of the outstanding stock of
13 the corporation; or

14 (d) if the employer is an entity other
15 than a corporation, estate or trust, is a dependent of an
16 individual who owns, directly or indirectly, more than fifty
17 percent of the capital and profits interests in the entity;

18 (7) "eligible employer" means an employer
19 that, during the applicable qualifying period, would be
20 eligible for development training program assistance under the
21 fiscal year 2019 policies defining development training program
22 eligibility developed by the industrial training board in
23 accordance with Section 21-19-7 NMSA 1978;

24 (8) "modified combined tax liability" means
25 the total liability for the reporting period for the gross

underscoring material = new
~~[bracketed material]~~ = delete

1 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
2 any tax collected at the same time and in the same manner as
3 the gross receipts tax, such as the compensating tax, the
4 withholding tax, the interstate telecommunications gross
5 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
6 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
7 minus the amount of any credit other than the high-wage jobs
8 tax credit applied against any or all of these taxes or
9 surcharges; but "modified combined tax liability" excludes all
10 amounts collected with respect to local option gross receipts
11 taxes;

12 (9) "new high-wage job" means a new job
13 created in New Mexico by an eligible employer on or after July
14 1, 2004 and prior to July 1, 2026 that is occupied for at least
15 forty-four weeks of a qualifying period by an eligible employee
16 who is paid wages calculated for the qualifying period to be at
17 least:

18 (a) for a new high-wage job created
19 prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if
20 the job is performed or based in or within ten miles of the
21 external boundaries of a municipality with a population of
22 sixty thousand or more according to the most recent federal
23 decennial census or in a class H county; and 2) twenty-eight
24 thousand dollars (\$28,000) if the job is performed or based in
25 a municipality with a population of less than sixty thousand

.230496.1

underscoring material = new
~~[bracketed material] = delete~~

1 according to the most recent federal decennial census or in the
2 unincorporated area, that is not within ten miles of the
3 external boundaries of a municipality with a population of
4 sixty thousand or more, of a county other than a class H
5 county; and

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

19 (10) "new job" means a job that is occupied by
20 an employee who has not been employed in New Mexico by the
21 eligible employer in the three years prior to the date of hire;

22 (11) "qualifying period" means the period of
23 twelve months beginning on the day an eligible employee begins
24 working in a new high-wage job or the period of twelve months
25 beginning on the anniversary of the day an eligible employee

.230496.1

underscoring material = new
[bracketed material] = delete

1 began working in a new high-wage job;

2 (12) "resident" means a natural person whose
3 domicile is in New Mexico at the time of hire or within one
4 hundred eighty days of the date of hire;

5 (13) "threshold job" means a job that:

6 (a) is occupied for at least forty-four
7 weeks of ~~[a calendar year]~~ the first fifty-two weeks of
8 employment by an eligible employee; provided that the fifty-
9 two-week period begins on the day the eligible employee
10 occupies the job; and ~~[that]~~

11 (b) meets the wage requirements for a
12 "new high-wage job"; and

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

22 SECTION 2. APPLICABILITY.--The provisions of this act
23 apply to applications for a high-wage jobs tax credit received
24 by the taxation and revenue department on or after the
25 effective date of this act.

.230496.1