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HOUSE BILL 335

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; CREATING THE NEW JOB TAX CREDIT;
PROVIDING FOR A TAX CREDIT FOR NEW JOBS CREATED IN TIMES OF
INCREASED STATEWIDE UNEMPLOYMENT.

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

Section 1. TAX CREDIT--NEW JOB TAX CREDIT. --

A. The tax credit created by this section may be referred to as the "new job tax credit". An eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each qualifying job the employer creates in a distressed period beginning July 1, 2002. The maximum tax credit amount with respect to each qualifying job is equal to twenty-five percent of the first sixteen thousand dollars (\$16,000) in wages paid for the qualifying job.

B. As used in this section:

underscored material = new
[bracketed material] = delete

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

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

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

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

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[bracketed material] = delete

1 employer is an estate or trust, of a grantor, beneficiary or
2 fiduciary of the estate or trust;

3 (2) "eligible employer" means a
4 nongovernmental employer, other than one whose business is
5 registered with the taxation and revenue department as
6 primarily a retail business, whose place of business is
7 located in New Mexico;

8 (3) "modified combined tax liability" means
9 the total liability for the reporting period for the gross
10 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
11 the compensating tax and the withholding tax, minus the amount
12 of any credit other than the new job tax credit applied
13 against any or all of these taxes; but "modified combined tax
14 liability" excludes all amounts collected with respect to
15 local option gross receipts taxes;

16 (4) "qualifying job" means a permanent full-
17 time position in a business located in the state during a
18 distressed period statewide, or in a county during a
19 distressed period for that county, paying a wage of least ten
20 dollars (\$10.00) per hour that is occupied by an eligible
21 employee who has not been counted to meet this employment
22 requirement for any prior claim in addition to the number of
23 full-time employees employed on the day six months prior to
24 the day on which the taxpayer applies for the credit; the new
25 position must be occupied by a full-time employee for at least

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[bracketed material] = delete

1 forty-eight weeks of a qualifying period;

2 (5) "qualifying period" means the period of
3 twelve months beginning on the day an eligible employee begins
4 working in a qualifying job during a distressed period or the
5 period of twelve months beginning on the anniversary of the
6 day an eligible employee began working in a qualifying job
7 during a distressed period;

8 (6) "distressed period" statewide means the
9 period beginning with the month during which the seasonally
10 adjusted monthly state unemployment rate exceeds the state's
11 rate for that month the previous year by more than five-tenths
12 percent; for an individual county, "distressed period" means
13 the period beginning with the month during which that county's
14 seasonally adjusted monthly unemployment rate exceeds the
15 county's rate for that month the previous year by more than
16 five-tenths percent; and

17 (7) "wages" means wages as defined by
18 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).

19 C. The amount of the new job tax credit shall be
20 twenty-five percent of the first sixteen thousand dollars
21 (\$16,000) in wages paid for the qualifying job in a qualifying
22 period. The new job tax credit may be claimed for each
23 qualifying job for a maximum of two qualifying periods for
24 each qualifying job performed in the state.

25 D. With respect to each qualifying job for which

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1 an eligible employer seeks the new job tax credit, the
2 employer shall certify the amount of wages paid to each
3 eligible employee during each qualifying period and the number
4 of weeks during the qualifying period the position was
5 occupied. The taxpayer may begin taking the tax credit at the
6 end of the first month the new position is filled by an
7 eligible employee provided that the taxpayer shall reimburse
8 the department for any new job tax credit claimed if during
9 the qualifying period the position does not meet the
10 specifications for a qualifying job.

11 E. To receive a new job tax credit with respect to
12 and during any qualifying period, an eligible employer shall
13 apply to the taxation and revenue department on forms and in
14 the manner the department may prescribe.

15 F. The taxpayer may apply all or a portion of the
16 new job tax credit against the taxpayer's:

- 17 (1) modified combined tax liability; and
18 (2) personal income tax liability or
19 corporate income tax liability minus the amount of any credit,
20 other than the new job tax credit, applied against the
21 taxpayer's personal or corporate income tax liability for the
22 taxable year. No amount of new job tax credit may be applied
23 against a gross receipts tax imposed by a municipality or
24 county.

25 G. The secretary of economic development, the

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1 secretary of taxation and revenue and the secretary of labor
2 or their designees shall annually evaluate the effectiveness
3 of the new job tax credit in alleviating unemployment and
4 stimulating the economy of New Mexico and make a joint report
5 of their findings to each session of the legislature so long
6 as the new job tax credit is in effect.

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