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HOUSE BILL 331

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John A. Heaton

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE

AN ACT

RELATING TO TAXATION; CREATING THE HIGH-WAGE JOBS TAX CREDIT.

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

Section 1. TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

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

B. The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages and benefits distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000).

C. The high-wage jobs tax credit may be claimed by

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1 an eligible employer for each new high-wage economic-based job
2 performed for the year in which the new high-wage economic-
3 based job is created and for the three following qualifying
4 periods.

5 D. A new high-wage economic-based job shall not be
6 eligible for a credit pursuant to this section unless the
7 eligible employer's total number of employees with new high-
8 wage economic-based jobs on the last day of the qualifying
9 period at the location at which the job is performed or based
10 is at least one more than the number on the day prior to the
11 date the job was created.

12 E. With respect to each new high-wage economic-
13 based job for which an eligible employer seeks the high-wage
14 jobs tax credit, the employer shall certify:

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

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

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

25 (4) the total number of employees employed by

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1 the employer at the job location on the day prior to the
2 qualifying period and on the last day of the qualifying period.

3 F. To receive a high-wage jobs tax credit with
4 respect to any qualifying period, an eligible employer shall
5 apply to the taxation and revenue department on forms and in
6 the manner prescribed by the department. The application shall
7 include a certification made pursuant to Subsection E of this
8 section.

9 G. The credit provided in this section may be
10 deducted from the modified combined tax liability of a
11 taxpayer. If the credit exceeds the modified combined tax
12 liability of the taxpayer, the excess shall be refunded to the
13 taxpayer.

14 H. As used in this section:

15 (1) "benefits" means any employee benefit plan
16 as defined in Title 1, Section 3 of the federal Employee
17 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

18 (2) "eligible employee" means an individual
19 who is employed by an eligible employer and who is a resident
20 of New Mexico; "eligible employee" does not include an
21 individual who:

22 (a) bears any of the relationships
23 described in Paragraphs (1) through (8) of 26 U.S.C. Section
24 152(a) to the employer or, if the employer is a corporation, to
25 an individual who owns, directly or indirectly, more than fifty

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1 percent in value of the outstanding stock of the corporation
2 or, if the employer is an entity other than a corporation, to
3 an individual who owns, directly or indirectly, more than fifty
4 percent of the capital and profits interest in the entity;

5 (b) if the employer is an estate or
6 trust, is a grantor, beneficiary or fiduciary of the estate or
7 trust or is an individual who bears any of the relationships
8 described in Paragraphs (1) through (8) of 26 U.S.C. Section
9 152(a) to a grantor, beneficiary or fiduciary of the estate or
10 trust;

11 (c) is a dependent, as that term is
12 described in 26 U.S.C. Section 152(a)(9), of the employer or,
13 if the taxpayer is a corporation, of an individual who owns,
14 directly or indirectly, more than fifty percent in value of the
15 outstanding stock of the corporation or, if the employer is an
16 entity other than a corporation, of an individual who owns,
17 directly or indirectly, more than fifty percent of the capital
18 and profits interests in the entity or, if the employer is an
19 estate or trust, of a grantor, beneficiary or fiduciary of the
20 estate or trust; or

21 (d) is working or has worked as an
22 employee or as an independent contractor for an entity that
23 directly or indirectly owns stock in a corporation of the
24 eligible employer or other interest of the eligible employer
25 that represents fifty percent or more of the total voting power

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1 of that entity or has a value equal to fifty percent or more of
2 the capital and profits interest in the entity;

3 (3) "eligible employer" means an employer
4 that:

5 (a) made more than fifty percent of its
6 sales to persons outside New Mexico during the most recent
7 twelve months of the employer's modified combined tax liability
8 reporting periods ending prior to claiming a high-wage jobs tax
9 credit; and

10 (b) is eligible for development training
11 fund assistance pursuant to Section 21-19-7 NMSA 1978;

12 (4) "modified combined tax liability" means
13 the total liability for the reporting period for the gross
14 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
15 any tax collected at the same time and in the same manner as
16 the gross receipts tax, such as the compensating tax, the
17 withholding tax, the interstate telecommunications gross
18 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
19 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
20 minus the amount of any credit other than the high-wage jobs
21 tax credit applied against any or all of these taxes or
22 surcharges; but "modified combined tax liability" excludes all
23 amounts collected with respect to local option gross receipts
24 taxes;

25 (5) "new high-wage economic-based job" means a

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1 job created by an eligible employer on or after July 1, 2004
2 and prior to July 1, 2009 that is occupied for at least forty-
3 eight weeks of a qualifying period by an eligible employee who
4 is paid wages calculated for the qualifying period to be at
5 least:

6 (a) forty thousand dollars (\$40,000) if
7 the job is performed or based in a municipality with a
8 population of forty thousand or more according to the most
9 recent federal decennial census; and

10 (b) twenty-eight thousand dollars
11 (\$28,000) if the job is performed or based in a municipality
12 with a population of less than forty thousand according to the
13 most recent federal decennial census or in the unincorporated
14 area of a county;

15 (6) "qualifying period" means the period of
16 twelve months beginning on the day an eligible employee begins
17 working in a new high-wage economic-based job or the period of
18 twelve months beginning on the anniversary of the day an
19 eligible employee began working in a new high-wage economic-
20 based job; and

21 (7) "wages" means wages as defined in
22 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).