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

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

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

- (1) the amount of wages paid to each eligible employee in a

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1 new high-wage economic-based job during each qualifying period;

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

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

8 (4) the total number of employees employed by the employer
9 at the job location on the day prior to the qualifying period and on the last day of the
10 qualifying period.

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

16 G. The credit provided in this section may be deducted from the
17 modified combined tax liability of a taxpayer. If the credit exceeds the modified
18 combined tax liability of the taxpayer, the excess shall be refunded to the taxpayer.

19 H. As used in this section:

20 (1) "benefits" means any employee benefit plan as defined in
21 Title 1, Section 3 of the federal Employee Retirement Income Security Act of 1974,
22 29 U.S.C. 1002;

23 (2) "eligible employee" means an individual who is employed
24 by an eligible employer and who is a resident of New Mexico; "eligible employee"
25 does not include an individual who:

(a) bears any of the relationships described in
Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the

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

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

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

16 (d) is working or has worked as an employee or as an
17 independent contractor for an entity that directly or indirectly owns stock in a
18 corporation of the eligible employer or other interest of the eligible employer that
19 represents fifty percent or more of the total voting power of that entity or has a value
20 equal to fifty percent or more of the capital and profits interest in the entity;

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

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

(b) is eligible for development training program

1 assistance pursuant to Section 21-19-7 NMSA 1978;

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

12 (5) "new high-wage economic-based job" means a job
13 created by an eligible employer on or after July 1, 2004 and prior to July 1, 2009
14 that is occupied for at least forty-eight weeks of a qualifying period by an eligible
15 employee who is paid wages calculated for the qualifying period to be at least:

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

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

23 (6) "qualifying period" means the period of twelve months
24 beginning on the day an eligible employee begins working in a new high-wage
25 economic-based job or the period of twelve months beginning on the anniversary of
the day an eligible employee began working in a new high-wage economic-based
job; and

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

3 Section 2. DELAYED REPEAL.--The provisions of this act are repealed
4 effective January 1, 2010.

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