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SENATE BILL 695

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO TAXATION; MAKING THE RURAL JOB TAX CREDIT
PERMANENT; AMENDING AND REPEALING SECTIONS 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, as amended) 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:

- (1) twenty-five percent of the first sixteen

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1 thousand dollars (\$16,000) in wages paid for the qualifying job
2 if the job is performed or based at a location in a tier one
3 area; or

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

8 B. As used in this section:

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

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

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

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

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

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

17 (4) "modified combined tax liability" means
18 the total liability for the reporting period for the gross
19 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
20 any tax collected at the same time and in the same manner as
21 that gross receipts tax, such as the compensating tax, the
22 withholding tax, the interstate telecommunications gross
23 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
24 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
25 minus the amount of any credit other than the rural job tax

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1 credit applied against any or all of these taxes or surcharges;
2 but "modified combined tax liability" excludes all amounts
3 collected with respect to local option gross receipts taxes;

4 (5) "qualifying job" means a job established
5 by the employer that is occupied by an eligible employee for at
6 least forty-eight weeks of a qualifying period;

7 (6) "qualifying period" means the period of
8 twelve months beginning on the day an eligible employee begins
9 working in a qualifying job or the period of twelve months
10 beginning on the anniversary of the day an eligible employee
11 began working in a qualifying job;

12 (7) "rural area" means any part of the state
13 other than:

- 14 (a) an H class county;
15 (b) the state fairgrounds;
16 (c) an incorporated municipality within
17 a metropolitan statistical area if the municipality's
18 population is thirty thousand or more according to the most
19 recent federal decennial census; and
20 (d) any area within ten miles of the
21 exterior boundaries of a municipality described in Subparagraph
22 (c) of this paragraph;

23 (8) "tier one area" means:
24 (a) any municipality within the rural
25 area if the municipality's population according to the most

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1 recent federal decennial census is fifteen thousand or less; or

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

4 (9) "tier two area" means any municipality
5 within the rural area if the municipality's population
6 according to the most recent federal decennial census is more
7 than fifteen thousand; and

8 (10) "wages" means wages as defined by
9 Paragraphs (1), (2) and (3) of 26 [~~U.S.C.~~] USCA Section 51(c).

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

15 (1) four qualifying periods for each
16 qualifying job performed or based at a location in a tier one
17 area; and

18 (2) two qualifying periods for each qualifying
19 job performed or based at a location in a tier two area.

20 D. With respect to each qualifying job for which an
21 eligible employer seeks the rural job tax credit, the employer
22 shall certify the amount of wages paid to each eligible
23 employee during each qualifying period, the number of weeks
24 during the qualifying period the position was occupied and
25 whether the qualifying job was in a tier one or tier two area.

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1 E. The economic development department shall
2 determine which employers are eligible employers and shall
3 report the listing of eligible businesses to the taxation and
4 revenue department in a manner and at times the departments
5 shall agree upon.

6 F. To receive a rural job tax credit with respect
7 to any qualifying period, an eligible employer must apply to
8 the taxation and revenue department on forms and in the manner
9 the department may prescribe. The application shall include a
10 certification made pursuant to Subsection D of this section.
11 If all the requirements of this section have been complied
12 with, the taxation and revenue department may issue to the
13 applicant a document granting a tax credit for the respective
14 qualifying period. The tax credit document shall be numbered
15 for identification and declare its date of issuance and the
16 amount of rural job tax credit allowed for the respective jobs
17 created. Such tax credit documents may be sold, exchanged or
18 otherwise transferred and can be carried forward for a period
19 of three years from the date of issuance. The parties to such
20 a transaction shall notify the department of the sale, exchange
21 or transfer within ten days of the sale, exchange or transfer.

22 G. The holder of the tax credit document may apply
23 all or a portion of the rural job tax credit granted by the
24 document against the holder's modified combined tax liability,
25 personal income tax liability or corporate income tax

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1 liability. Any balance of rural job tax credit granted by the
2 document may be carried forward for up to three years from the
3 date of issuance of the tax credit document. No amount of
4 rural job tax credit may be applied against a gross receipts
5 tax imposed by a municipality or county.

6 H. Notwithstanding the provisions of Section 7-1-8
7 NMSA 1978, the taxation and revenue department may disclose to
8 any person the balance of rural job tax credit remaining on any
9 tax credit document and the balance of credit remaining on that
10 document for any period.

11 I. The secretary of economic development, the
12 secretary of taxation and revenue and the secretary of labor or
13 their designees shall annually evaluate the effectiveness of
14 the rural job tax credit in stimulating economic development in
15 the rural areas of New Mexico and make a joint report of their
16 findings to each session of the legislature so long as the
17 rural job tax credit is in effect."

18 Section 2. REPEAL.--Section 7-2E-2 NMSA 1978 (being Laws
19 1999, Chapter 183, Section 2, as amended) is repealed.