

1 SENATE BILL 557

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Carroll H. Leavell

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO TAXATION; CLARIFYING THE APPLICATION OF THE RURAL  
12 JOB TAX CREDIT; DEFINING "WAGES".

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,  
16 Chapter 172, Section 2) is amended to read:

17 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

18 A. The tax credit created by this section may be  
19 referred to as the "rural job tax credit". Every eligible  
20 employer may apply for, and the taxation and revenue department  
21 may allow, a tax credit for each qualifying job the employer  
22 creates. The maximum tax credit amount with respect to each  
23 qualifying job is equal to:

24 (1) twenty-five percent of the first sixteen  
25 thousand dollars (\$16,000) in wages paid for the qualifying job

.193024.2

underscored material = new  
[bracketed material] = delete

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

1 if the job is performed or based at a location in a tier one  
2 area; or

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

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

12 (1) four qualifying periods for each  
13 qualifying job performed or based at a location in a tier one  
14 area; and

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

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

23 D. The economic development department shall  
24 determine which employers are eligible employers and shall  
25 report the listing of eligible businesses to the taxation and

.193024.2

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

1 revenue department in a manner and at times the departments  
2 shall agree upon.

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

20 F. The holder of the tax credit document may apply  
21 all or a portion of the rural job tax credit granted by the  
22 document against the holder's modified combined tax liability,  
23 personal income tax liability or corporate income tax  
24 liability. Any balance of rural job tax credit granted by the  
25 document may be carried forward for up to three years from the

.193024.2

underscored material = new  
[bracketed material] = delete

1 date of issuance of the tax credit document. No amount of  
2 rural job tax credit may be applied against a gross receipts  
3 tax imposed by a municipality or county.

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

9 H. The secretary of economic development, the  
10 secretary of taxation and revenue and the secretary of [~~labor~~  
11 workforce solutions] or their designees shall annually evaluate  
12 the effectiveness of the rural job tax credit in stimulating  
13 economic development in the rural areas of New Mexico and make  
14 a joint report of their findings to each session of the  
15 legislature so long as the rural job tax credit is in effect.

16 I. An eligible employer that creates a qualifying  
17 job in the period beginning on or after July 1, 2006 but before  
18 July 1, 2007 or creates a qualifying job, the qualifying period  
19 of which includes a part of the period between July 1, 2006 and  
20 July 1, 2007, for which the eligible employer has not received  
21 a rural job tax credit document pursuant to this section may  
22 submit an application for, and the taxation and revenue  
23 department may issue to the eligible employer applying, a  
24 document granting a tax credit for the appropriate qualifying  
25 period. Claims for a rural job tax credit submitted pursuant

.193024.2

underscored material = new  
[bracketed material] = delete

1 to the provisions of this subsection shall be submitted within  
2 three years from the date of issuance of the rural job tax  
3 credit document.

4 J. A qualifying job shall not be eligible for a  
5 rural job credit pursuant to this section if:

6 (1) the job is created due to a business  
7 merger, acquisition or other change in organization;

8 (2) the eligible employee was terminated from  
9 employment in New Mexico by another employer involved in the  
10 merger, acquisition or other change in organization; and

11 (3) the job is performed by:

12 (a) the person who performed the job or  
13 its functional equivalent prior to the business merger,  
14 acquisition or other change in organization; or

15 (b) a person replacing the person who  
16 performed the job or its functional equivalent prior to the  
17 business merger, acquisition or other change in organization.

18 K. Notwithstanding Subsection J of this section, a  
19 qualifying job that was created by another employer and for  
20 which the rural job tax credit claim was received by the  
21 taxation and revenue department prior to July 1, 2013 and is  
22 under review or has been approved shall remain eligible for the  
23 rural job tax credit for the balance of the qualifying periods  
24 for which the job qualifies by the new employer that results  
25 from a business merger, acquisition or other change in the

.193024.2

underscored material = new  
[bracketed material] = delete

1 organization.

2 L. A job shall not be eligible for a rural job tax  
3 credit pursuant to this section if the job is created due to an  
4 eligible employer entering into a contract or becoming a  
5 subcontractor to a contract with a governmental entity that  
6 replaces one or more entities performing functionally  
7 equivalent services for the governmental entity in New Mexico  
8 unless the job is a qualifying job that was not being performed  
9 by an employee of the replaced entity.

10 [~~J.~~] M. As used in this section:

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

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

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

.193024.2

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

1 152(a) to a grantor, beneficiary or fiduciary of the estate or  
2 trust; or

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

13 (2) "eligible employer" means an employer  
14 who ~~[has been approved]~~ is eligible for in-plant training  
15 assistance pursuant to Section 21-19-7 NMSA 1978;

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

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

.193024.2

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

1 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
2 minus the amount of any credit other than the rural job tax  
3 credit applied against any or all of these taxes or surcharges;  
4 but "modified combined tax liability" excludes all amounts  
5 collected with respect to local option gross receipts taxes;

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

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

14 (7) "rural area" means any part of the state  
15 other than:

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

25 (8) "tier one area" means:

.193024.2



underscored material = new  
[bracketed material] = delete

1 (a) any municipality within the rural  
2 area if the municipality's population according to the most  
3 recent federal decennial census is fifteen thousand or less; or

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

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

10 (10) "wages" means [~~wages as defined by~~  
11 ~~Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)] all  
12 compensation paid by an eligible employer to an eligible  
13 employee through the employer's payroll system, including those  
14 wages the employee elects to defer or redirect, such as the  
15 employee's contribution to 401(k) or cafeteria plan programs,  
16 but not including benefits or the employer's share of payroll  
17 taxes."~~

18 SECTION 2. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2013.