

SB 217-FN - AS AMENDED BY THE SENATE

03/05/2015 0494s

2015 SESSION

15-0904
10/09

SENATE BILL **217-FN**

AN ACT establishing a job creation tax credit against business enterprise taxes.

SPONSORS: Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. Little, Dist 8; Sen. Watters, Dist 4; Sen. Cataldo, Dist 6; Sen. Pierce, Dist 5; Sen. Feltes, Dist 15; Sen. Carson, Dist 14; Sen. Forrester, Dist 2; Sen. Fuller Clark, Dist 21; Rep. Weyler, Rock 13; Rep. Ford, Graf 3

COMMITTEE: Ways and Means

ANALYSIS

This bill establishes a statewide tax credit against business enterprise taxes for new net jobs created.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT establishing a job creation tax credit against business enterprise taxes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Business Enterprise Tax; Job Creation Tax Credit. Amend RSA 77-E by
2 inserting after section 3-d the following new section:

3 77-E:3-e Job Creation Tax Credit. The job creation tax credit as computed and certified in
4 RSA 162-R shall be allowed against the tax due under this chapter.

5 2 New Chapter; Job Creation Tax Credit. Amend RSA by inserting after chapter 162-Q the
6 following new chapter:

7 CHAPTER 162-R

8 JOB CREATION TAX CREDIT

9 162-R:1 Definitions. In this chapter:

10 I. "Net new job" means a job created that satisfies all of the following criteria:

11 (a) Is a position new to the state;

12 (b) Has not been transferred from employment with another business located in this
13 state, through an acquisition, merger, consolidation or other reorganization of businesses or the
14 acquisition of assets of another business, or has not been transferred from employment with a
15 related person in this state;

16 (c) Is either a full-time wage-paying job or equivalent to a full-time wage-paying job
17 requiring at least 37.5 hours per week; and

18 (d) Is filled for more than 6 months.

19 II. "New business" means a business that satisfies all of the following tests:

20 (a) The business is organized as a corporation, a partnership, limited liability company,
21 or a sole proprietorship and is not operating or located within the state at the time it submits its
22 application to participate in the program.

23 (b) The business is not substantially similar in operation and in ownership to a business
24 entity or entities taxable, or previously taxable within the last 5 taxable years.

25 (c) The business has operated less than one year at the time of application.

26 162-R:2 Job Creation Tax Credit Established.

27 I.(a) There shall be a job creation tax credit for each new net job for a qualified employee, for
28 up to 5 consecutive tax periods, as certified by the commissioner of resources and economic
29 development under RSA 162-R:4 and pursuant to an agreement under RSA 162-R:5. The amount of
30 the tax credit shall be as follows:

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1 (1) \$750 for each qualified tax credit employee earning wages which are equal to or
2 greater than 150 percent but less than 200 percent of the current state minimum wage.

3 (2) \$1,000 for each qualified tax credit employee earning wages which are equal to or
4 greater than 200 percent of the current state minimum wage.

5 (b) If the position held by a qualified tax credit employee ceases to exist at any time
6 during the 5 consecutive tax periods, the employer may not claim the credit for the tax period in
7 which the position ceased to exist or for future tax periods within the 5 consecutive tax periods.

8 (c) The positions included in the job creation program shall not be eligible for any other
9 state tax incentive programs for any point during the period for which a credit is being received.

10 (d) The initial job creation tax credit allowed under this paragraph shall not apply to any
11 tax period ending prior to the effective date of this section, or to any tax period ending after
12 December 31, 2020. After being initially granted, the tax credit shall be renewable for 5 consecutive
13 additional years, provided that no additional tax credit shall be granted under this chapter for any
14 tax period after December 31, 2025.

15 II. Unused portions of this credit shall be carried forward up to 5 years. Unused, carried-
16 forward credit under this section shall be applied before any other available carry-forward credit.

17 162-R:3 Eligibility for Tax Credit. The credit under this chapter shall be available to:

18 I. A new business if it demonstrates that, in its first year of operation, net new jobs were created.

19 II. An existing business if it demonstrates that it has expanded its workforce from the
20 previous year by adding one or more net new jobs. Only employees hired in a qualifying net new job
21 shall be eligible for the program.

22 162-R:4 Approval and Certification. The commissioner of the department of resources and
23 economic development, in consultation with the commissioner of the department of revenue
24 administration, shall develop application forms on which taxpayers may apply for the job creation
25 tax credit. The application forms shall be submitted by taxpayers to the commissioner of the
26 department of resources and economic development, and the commissioner shall approve or deny
27 such applications and certify to the commissioner of the department of revenue administration the
28 total credit awarded to each business organization that hires qualified tax credit employees.

29 162-R:5 Job Creation Tax Credit Agreement.

30 I. The commissioner of resources and economic development shall enter into a written
31 agreement with each taxpayer; such agreement to be certified by the commissioner of resources and
32 economic development under this section. The agreement shall contain such provisions as the
33 commissioner of resources and economic development determines to be in the public interest, which
34 shall include, but not be limited to:

35 (a) Quality and quantity of jobs to be created.

36 (b) Duration of the taxpayer's commitments with respect to the job creation tax credit.

37 (c) The maximum amount of the job creation tax credit that will be allowed to the

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1 business under this agreement for jobs created and for construction or reconstruction expenses.

2 II. A certified copy of each agreement signed by the commissioner of resources and economic
3 development and the taxpayer and a certified copy of each determination of the final amount of the
4 credit awarded under the agreement shall be provided to the commissioner of revenue
5 administration and the taxpayer claiming the credit no later than March 10 of each year.

6 162-R:6 Rulemaking. The commissioner of revenue administration shall adopt rules, under
7 RSA 541-A, relative to documentation of the credits claimed under this chapter. The commissioner
8 of resources and economic development shall adopt rules, under RSA 541-A, relative to the
9 administration and implementation of this chapter. The rules adopted by the commissioner of
10 resources and economic development shall include provisions relative to:

11 I. Criteria for and approval of applications.

12 II. Application registration process and service.

13 162-R:7 Reports. The commissioner of resources and economic development shall file an annual
14 report 60 days after the close of each fiscal year with the governor, the senate president, the speaker
15 of the house of representatives, and the fiscal committee of the general court. The report shall
16 describe the results of the job creation tax credit program and shall include any recommendations for
17 further legislation regarding the job creation tax credit program.

18 3 Effective Date. This act shall take effect July 1, 2015.

SB 217-FN FISCAL NOTE

AN ACT establishing a job creation tax credit against business enterprise taxes.

FISCAL IMPACT:

The Department of Revenue Administration and Department of Resources and Economic Development state this bill, **as amended by the Senate (Amendment #2015-0494s)**, will decrease state revenue, and will increase state expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill provides for a Small Business Job Creation Tax Credit against the Business Enterprise Tax (BET) for new businesses which demonstrate that in its first year of operation, net new jobs were created, and if it demonstrates that it has expanded its workforce from the previous year by adding one or more net new jobs, and that only employees hired in a qualifying net new job shall be eligible for the program. For each “net new job” hired, the business shall be allowed a tax credit in the amount of either \$750 or \$1,000 depending upon the percentage the employee’s wage is greater than current state minimum wage. This bill does not provide a limit on the number of tax credits that can be issued. The Department cannot estimate the potential reduction of revenue because there is no limit on the number of tax credits that can be issued, and because the DRA cannot predict how many businesses “not operating or located within the state at the time it submits its application to participate in the program” would take advantage of this program and move into New Hampshire to conduct business activities.

The Department of Resources and Economic Development (DRED) state to accomplish the requirements of the proposed bill they will need to create a program to administer tax credits to oversee the application process, undertake marketing efforts, train staff and regularly evaluate the program. Although this bill does not establish positions or contain an appropriation, the Department states they will need to hire a Program Specialist III position. The costs are estimated as follows –

	FY 2016	FY 2017	FY 2018	FY 2019
Salary	\$50,176	\$51,772	\$52,807	\$53,863

Benefits	\$26,817	\$28,208	\$29,557	\$30,984
Current Expenses	\$250	\$250	\$250	\$250
Equipment	\$1,000	\$100	\$100	\$100
Travel	\$200	\$200	\$200	\$200
TOTAL COST	\$78,443	\$80,530	\$82,914	\$85,397