

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 16

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11 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

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AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX
ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING
THE STATE GRADUATE EMPLOYMENT TAX CREDIT.

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

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"~~[NEW MATERIAL]~~ STATE GRADUATE EMPLOYMENT TAX CREDIT.--

A. A taxpayer who files an individual New Mexico
income tax return, who is not a dependent of another individual
and who is the owner of a New Mexico sole proprietorship,
partnership or limited liability company may claim a credit in
an amount equal to five thousand dollars (\$5,000) of the gross
wages paid to each qualified state graduate who is employed
full time in New Mexico by the taxpayer for at least seven

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underscored material = new
[bracketed material] = delete

1 months during the first taxable year for which the return is
2 filed and for twelve months during the second taxable year for
3 which the return is filed. The tax credit provided by this
4 section may be referred to as the "state graduate employment
5 tax credit".

6 B. The purpose of the state graduate employment tax
7 credit is to encourage the full-time employment of qualified
8 state graduates within the eighteen months of graduation from
9 one of the state educational institutions enumerated in Article
10 12, Section 11 of the constitution of New Mexico.

11 C. A taxpayer who is the owner of a New Mexico sole
12 proprietorship, partnership or limited liability company may
13 claim the state graduate employment tax credit provided in this
14 section for each taxable year in which the taxpayer employs one
15 or more qualified state graduates; provided that the taxpayer
16 may not claim the state graduate employment tax credit for any
17 individual qualified state graduate for more than two taxable
18 years. A taxpayer shall apply for approval for a credit within
19 one year following the end of the calendar year in which the
20 taxpayer employs the qualified state graduate upon which the
21 credit is predicated.

22 D. That portion of a state graduate employment tax
23 credit approved by the taxation and revenue department that
24 exceeds a taxpayer's income tax liability in the taxable year
25 in which the state graduate employment tax credit is claimed

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1 shall not be refunded to the taxpayer. The state graduate
2 employment tax credit shall not be carried forward or
3 transferred to another taxpayer.

4 E. A husband and wife filing separate returns for a
5 taxable year for which they could have filed a joint return may
6 each claim only one-half of the state graduate employment tax
7 credit that would have been claimed on a joint return.

8 F. A taxpayer who otherwise qualifies and claims a
9 state graduate employment tax credit in New Mexico that may be
10 claimed by a partnership or limited liability company of which
11 the taxpayer is a member may claim a credit only in proportion
12 to the taxpayer's interest in the partnership or limited
13 liability company. The total credit claimed by all members of
14 the partnership or limited liability company shall not exceed
15 the allowable credit pursuant to Subsection A of this section.

16 G. The taxpayer shall submit to the higher
17 education department with respect to each employee for whom the
18 state graduate employment tax credit is claimed:

19 (1) information required by the secretary of
20 higher education with respect to the employee's employment by
21 the taxpayer during the taxable year for which the state
22 graduate employment tax credit is claimed; and

23 (2) information required by the secretary of
24 higher education establishing that the employee is a qualified
25 state graduate and was not also employed in the same taxable

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1 year by another taxpayer claiming a state graduate employment
2 tax credit for that employee pursuant to this section or the
3 Corporate Income and Franchise Tax Act.

4 H. The higher education department shall adopt
5 rules establishing procedures to certify qualified state
6 graduates for purposes of obtaining a state graduate employment
7 tax credit. The rules shall ensure that not more than one
8 state graduate employment tax credit per qualified state
9 graduate shall be allowed in a taxable year and that the
10 credits allowed per qualified state graduate are limited to a
11 maximum of two years. The higher education department shall
12 issue a dated certificate of eligibility containing a list of
13 the qualified state graduates employed by the taxpayer claiming
14 the state graduate employment tax credit, including identifying
15 information such as the social security number of the employee,
16 the date of graduation and the name of the state educational
17 institution from which the employee graduated, the date of
18 employment of the employee by the taxpayer and the number of
19 hours worked per week by the employee. All certificates of
20 eligibility issued pursuant to this subsection shall be
21 sequentially numbered, and an account of all certificates
22 issued or destroyed shall be maintained by the higher education
23 department. The taxation and revenue department shall audit
24 the records of the state graduate employment tax credit
25 maintained by the higher education department on a periodic

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1 basis to ensure effective administration of the state graduate
2 employment tax credit and compliance with the Tax
3 Administration Act and this section.

4 I. To claim a state graduate employment tax credit,
5 the taxpayer shall provide to the taxation and revenue
6 department the certificate of eligibility issued by the higher
7 education department pursuant to this section to the taxpayer
8 for the taxable year for which the state graduate employment
9 tax credit is claimed.

10 J. A taxpayer who claims and is granted approval
11 for the state graduate employment tax credit shall not apply
12 for or be granted approval for the rural job tax credit, the
13 high-wage jobs tax credit or the additional credit pursuant to
14 the Technology Jobs Tax Credit Act.

15 K. The taxation and revenue department may allow a
16 maximum annual aggregate of two million dollars (\$2,000,000) in
17 state graduate employment tax credits provided by this section
18 and the Corporate Income and Franchise Tax Act. Applications
19 for the state graduate employment tax credit shall be
20 considered in the order received by the taxation and revenue
21 department.

22 L. The taxation and revenue department shall
23 compile an annual report that includes the number of taxpayers
24 approved by the department to receive a state graduate
25 employment tax credit. Notwithstanding any other section of

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1 law to the contrary, the taxation and revenue department and
2 the higher education department may disclose the number of
3 applicants for the state graduate employment tax credit, the
4 amount of each credit approved, the number of qualified state
5 graduates hired, the length of time that the qualified state
6 graduate is employed while the taxpayer received the state
7 graduate employment tax credit and any other information
8 required by the legislature or the taxation and revenue
9 department to aid in evaluating the effectiveness of the state
10 graduate employment tax credit.

11 M. An appropriate legislative committee shall
12 review the effectiveness of the state graduate employment tax
13 credit every four years beginning in 2015.

14 N. 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; and

18 (2) "qualified state graduate" means an
19 individual who:

20 (a) is a New Mexico resident;

21 (b) files an individual New Mexico
22 income tax return;

23 (c) is hired prior to June 1, 2017 and
24 within eighteen months of graduation from one of the state
25 educational institutions of higher learning enumerated in

1 Article 12, Section 11 of the constitution of New Mexico;

2 (d) completed a post-secondary graduate
3 master's or professional degree within three years or, if part-
4 time, within the credit equivalent, or a doctoral degree within
5 six years or, if part-time, within the credit equivalent, in
6 the discipline of physical or life sciences, technology,
7 engineering, mathematics or a health-related field; and

8 (e) receives benefits and works at least
9 forty hours per week for at least seven months during the first
10 taxable year and for twelve months during the second taxable
11 year for which the state graduate employment tax credit is
12 claimed."

13 SECTION 2. A new section of the Corporate Income and
14 Franchise Tax Act is enacted to read:

15 "[NEW MATERIAL] STATE GRADUATE EMPLOYMENT TAX CREDIT.--

16 A. A taxpayer that is a New Mexico corporation and
17 that files a corporate income tax return may claim a credit in
18 an amount equal to five thousand dollars (\$5,000) of the gross
19 wages paid to each qualified state graduate who is employed
20 full time in New Mexico by the taxpayer for at least seven
21 months during the first taxable year for which the return is
22 filed and for twelve months during the second taxable year for
23 which the return is filed. The tax credit provided by this
24 section may be referred to as the "state graduate employment
25 tax credit".

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1 B. The purpose of the state graduate employment tax
2 credit is to encourage the full-time employment of qualified
3 state graduates within eighteen months of graduation from one
4 of the state educational institutions enumerated in Article 12,
5 Section 11 of the constitution of New Mexico.

6 C. A taxpayer may claim the state graduate
7 employment tax credit provided in this section for each taxable
8 year in which the taxpayer employs one or more qualified state
9 graduates; provided that the taxpayer may not claim the state
10 graduate employment tax credit for any individual qualified
11 state graduate for more than two calendar years from the date
12 of hire. A taxpayer shall apply for approval for a credit
13 within one year following the end of the calendar year in which
14 the taxpayer employs the qualified state graduate upon which
15 the credit is predicated.

16 D. That portion of a state graduate employment tax
17 credit approved by the taxation and revenue department that
18 exceeds a taxpayer's corporate income tax liability in the
19 taxable year in which the credit is claimed shall not be
20 refunded to the taxpayer. The state graduate employment tax
21 credit shall not be carried forward or transferred to another
22 taxpayer.

23 E. The taxpayer shall submit to the higher
24 education department with respect to each employee for whom the
25 state graduate employment tax credit is claimed:

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1 (1) information required by the secretary of
2 higher education with respect to the employee's employment by
3 the taxpayer during the taxable year for which the state
4 graduate employment tax credit is claimed; and

5 (2) information required by the secretary of
6 higher education establishing that the employee is a qualified
7 state graduate and was not also employed in the same taxable
8 year by another taxpayer claiming a state graduate employment
9 tax credit for that employee pursuant to this section or the
10 Income Tax Act.

11 F. The higher education department shall adopt
12 rules establishing procedures to certify qualified state
13 graduates for purposes of obtaining a state graduate employment
14 tax credit. The rules shall ensure that not more than one
15 state graduate employment tax credit per qualified state
16 graduate shall be allowed in a taxable year and that the
17 credits allowed per qualified state graduate are limited to a
18 maximum of two years. The higher education department shall
19 issue a dated certificate of eligibility containing a list of
20 the qualified state graduates employed by the taxpayer claiming
21 the state graduate employment tax credit, including identifying
22 information such as the social security number of the employee,
23 the date of graduation and the name of the state educational
24 institution from which the employee graduated, the date of
25 employment of the employee by the taxpayer and the number of

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1 hours worked per week by the employee. All certificates of
2 eligibility issued pursuant to this subsection shall be
3 sequentially numbered, and an account of all certificates
4 issued or destroyed shall be maintained by the higher education
5 department. The taxation and revenue department shall audit
6 the records of the state graduate employment tax credit
7 maintained by the higher education department on a periodic
8 basis to ensure effective administration of the state graduate
9 employment tax credit and compliance with the Tax
10 Administration Act and this section.

11 G. To claim a state graduate employment tax credit,
12 the taxpayer shall provide to the taxation and revenue
13 department the certificate of eligibility issued by the higher
14 education department pursuant to this section to the taxpayer
15 for the taxable year for which the state graduate employment
16 tax credit is claimed.

17 H. A taxpayer who claims and is granted approval
18 for the state graduate employment tax credit shall not apply
19 for or be granted approval for the rural job tax credit, the
20 high-wage jobs tax credit or the additional credit pursuant to
21 the Technology Jobs Tax Credit Act.

22 I. The taxation and revenue department may allow a
23 maximum annual aggregate of two million dollars (\$2,000,000) in
24 state graduate employment tax credits provided by this section
25 and the Income Tax Act. Applications for the state graduate

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1 employment tax credit shall be considered in the order received
2 by the taxation and revenue department.

3 J. The taxation and revenue department shall
4 compile an annual report that includes the number of taxpayers
5 approved by the department to receive a state graduate
6 employment tax credit. Notwithstanding any other section of
7 law to the contrary, the taxation and revenue department and
8 the higher education department may disclose the number of
9 applicants for the state graduate employment tax credit, the
10 amount of each credit approved, the number of qualified state
11 graduates hired, the length of time that the qualified state
12 graduate is employed while the taxpayer received the tax credit
13 and any other information required by the legislature or the
14 taxation and revenue department to aid in evaluating the
15 effectiveness of the state graduate employment tax credit.

16 K. An appropriate legislative committee shall
17 review the effectiveness of the state graduate employment tax
18 credit every four years beginning in 2015.

19 L. As used in this section:

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

23 (2) "qualified state graduate" means an
24 individual who:

25 (a) is a New Mexico resident;

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1 (b) files an individual New Mexico
2 income tax return;

3 (c) is hired prior to June 1, 2017 and
4 within eighteen months of graduation from one of the state
5 educational institutions of higher learning enumerated in
6 Article 12, Section 11 of the constitution of New Mexico;

7 (d) completed a post-secondary graduate
8 master's or professional degree within three years or, if part-
9 time, within the credit equivalent, or a doctoral degree within
10 six years or, if part-time, within the credit equivalent, in
11 the discipline of physical or life sciences, technology,
12 engineering, mathematics or a health-related field; and

13 (e) receives benefits and works at least
14 forty hours per week for at least seven months during the first
15 taxable year and twelve months during the second taxable year
16 for which the state graduate employment tax credit is claimed."

17 **SECTION 3. APPLICABILITY.**--The provisions of this act
18 apply to taxable years beginning on or after January 1, 2012.