

1 SENATE BILL 16

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Timothy M. Keller and James E. Smith

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10 AN ACT

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

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

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

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

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

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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. Applications for the
18 state graduate employment tax credit shall be considered in the
19 order received by the taxation and revenue department.

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

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

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

12 N. As used in this section:

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

16 (2) "qualified state graduate" means an
17 individual who:

18 (a) is a New Mexico resident;

19 (b) files an individual New Mexico
20 income tax return;

21 (c) is hired prior to June 1, 2017 and
22 within eighteen months of graduation from one of the state
23 educational institutions enumerated in Article 12, Section 11
24 of the constitution of New Mexico; and

25 (d) receives benefits and works at least

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1 forty hours per week for at least seven months during the first
2 taxable year and for twelve months during the second taxable
3 year for which the state graduate employment tax credit is
4 claimed."

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

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

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

18 B. The purpose of the state graduate employment tax
19 credit is to encourage the full-time employment of qualified
20 state graduates within eighteen months of graduation from one
21 of the state educational institutions enumerated in Article 12,
22 Section 11 of the constitution of New Mexico.

23 C. A taxpayer may claim the state graduate
24 employment tax credit provided in this section for each taxable
25 year in which the taxpayer employs one or more qualified state

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1 graduates; provided that the taxpayer may not claim the state
2 graduate employment tax credit for any individual qualified
3 state graduate for more than two calendar years from the date
4 of hire. A taxpayer shall apply for approval for a credit
5 within one year following the end of the calendar year in which
6 the taxpayer employs the qualified state graduate upon which
7 the credit is predicated.

8 D. That portion of a state graduate employment tax
9 credit approved by the taxation and revenue department that
10 exceeds a taxpayer's corporate income tax liability in the
11 taxable year in which the credit is claimed shall not be
12 refunded to the taxpayer. The state graduate employment tax
13 credit shall not be carried forward or transferred to another
14 taxpayer.

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

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

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

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1 tax credit for that employee pursuant to this section or the
2 Income Tax Act.

3 F. The higher education department shall adopt
4 rules establishing procedures to certify qualified state
5 graduates for purposes of obtaining a state graduate employment
6 tax credit. The rules shall ensure that not more than one
7 state graduate employment tax credit per qualified state
8 graduate shall be allowed in a taxable year and that the
9 credits allowed per qualified state graduate are limited to a
10 maximum of two years. The higher education department shall
11 issue a dated certificate of eligibility containing a list of
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14 information such as the social security number of the employee,
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17 employment of the employee by the taxpayer and the number of
18 hours worked per week by the employee. All certificates of
19 eligibility issued pursuant to this subsection shall be
20 sequentially numbered, and an account of all certificates
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22 department. The taxation and revenue department shall audit
23 the records of the state graduate employment tax credit
24 maintained by the higher education department on a periodic
25 basis to ensure effective administration of the state graduate

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1 employment tax credit and compliance with the Tax
2 Administration Act and this section.

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

9 H. A taxpayer who claims and is granted approval
10 for the state graduate employment tax credit shall not apply
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12 high-wage jobs tax credit or the additional credit pursuant to
13 the Technology Jobs Tax Credit Act.

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18 order received by the taxation and revenue department.

19 J. The taxation and revenue department shall
20 compile an annual report that includes the number of taxpayers
21 approved by the department to receive a state graduate
22 employment tax credit. Notwithstanding any other section of
23 law to the contrary, the taxation and revenue department and
24 the higher education department may disclose the number of
25 applicants for the state graduate employment income tax credit,

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1 the amount of each credit approved, the number of qualified
2 state graduates hired, the length of time that the qualified
3 state graduate is employed while the taxpayer received the tax
4 credit and any other information required by the legislature or
5 the taxation and revenue department to aid in evaluating the
6 effectiveness of the state graduate employment tax credit.

7 K. An appropriate legislative committee shall
8 review the effectiveness of the state graduate employment tax
9 credit every four years beginning in 2015.

10 L. As used in this section:

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12 as defined in Title 1, Section 3 of the federal Employee
13 Retirement Income Security Act of 1974, 29 U.S.C. 1002; and

14 (2) "qualified state graduate" means an
15 individual who:

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19 (c) is hired prior to June 1, 2017 and
20 within eighteen months of graduation from one of the state
21 educational institutions enumerated in Article 12, Section 11
22 of the constitution of New Mexico; and

23 (d) receives benefits and works at least
24 forty hours per week for at least seven months during the first
25 taxable year and twelve months during the second taxable year

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1 for which the state graduate employment tax credit is claimed."

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

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