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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

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 three hundred dollars (\$300) 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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1 months during the taxable year for which the return is filed.
2 The tax credit provided by this section may be referred to as
3 the "state graduate employment tax credit".

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

9 C. A taxpayer who is the owner of a New Mexico sole
10 proprietorship, partnership or limited liability company may
11 claim the state graduate employment tax credit provided in this
12 section for each taxable year in which the taxpayer employs one
13 or more qualified state graduates; provided that the taxpayer
14 may not claim the state graduate employment tax credit for any
15 individual qualified state graduate for more than two calendar
16 years from the date of hire.

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

24 E. A husband and wife filing separate returns for a
25 taxable year for which they could have filed a joint return may

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1 each claim only one-half of the state graduate employment tax
2 credit that would have been claimed on a joint return.

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

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

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

18 (2) information required by the secretary of
19 higher education establishing that the employee is a qualified
20 state graduate and was not also employed in the same taxable
21 year by another taxpayer claiming a state graduate employment
22 tax credit for that employee pursuant to this section or the
23 Corporate Income and Franchise Tax Act.

24 H. The higher education department shall adopt
25 rules establishing procedures to certify qualified state

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

24 I. To claim a state graduate employment tax credit,
25 the taxpayer shall provide to the taxation and revenue

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1 department the certificate of eligibility issued by the higher
2 education department pursuant to this section to the taxpayer
3 for the taxable year for which the state graduate employment
4 tax credit is claimed.

5 J. The taxation and revenue department may allow a
6 maximum annual aggregate of two million dollars (\$2,000,000) in
7 state graduate employment tax credits. Applications for the
8 state graduate employment tax credit shall be considered in the
9 order received by the taxation and revenue department.

10 K. The taxation and revenue department shall
11 compile an annual report that includes the number of taxpayers
12 approved by the department to receive a state graduate
13 employment tax credit. Notwithstanding any other section of
14 law to the contrary, the taxation and revenue department and
15 the higher education department may disclose the number of
16 applicants for the state graduate employment income tax credit,
17 the amount of each credit approved, the number of qualified
18 state graduates hired, the length of time the qualified state
19 graduate is employed while the taxpayer received the state
20 graduate employment tax credit and any other information
21 required by the legislature or the taxation and revenue
22 department to aid in evaluating the effectiveness of the state
23 graduate employment tax credit.

24 L. An appropriate legislative committee shall
25 review the effectiveness of the state graduate employment tax

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1 credit every four years beginning in 2015.

2 M. As used in this section, "qualified state
3 graduate" means an individual who is hired within one year of
4 graduation from one of the state educational institutions
5 enumerated in Article 12, Section 11 of the constitution of New
6 Mexico and who works at least forty hours per week for at least
7 seven months during the taxable year for which the state
8 graduate employment tax credit is claimed."

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

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

12 A. A taxpayer that is a New Mexico corporation and
13 that files a corporate income tax return may claim a credit in
14 an amount equal to three hundred dollars (\$300) of the gross
15 wages paid to each qualified state graduate who is employed
16 full time in New Mexico by the taxpayer for at least seven
17 months during the taxable year for which the return is filed.
18 The tax credit provided by this section may be referred to as
19 the "state graduate employment tax credit".

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

25 C. A taxpayer may claim the state graduate

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1 employment tax credit provided in this section for each taxable
2 year in which the taxpayer employs one or more qualified state
3 graduates; provided that the taxpayer may not claim the state
4 graduate employment tax credit for any individual qualified
5 state graduate for more than two calendar years from the date
6 of hire.

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

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

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

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

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1 Income Tax Act.

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

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1 Administration Act and this section.

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

8 H. The taxation and revenue department may allow a
9 maximum annual aggregate of two million dollars (\$2,000,000) in
10 state graduate employment tax credits. Applications for the
11 state graduate employment tax credit shall be considered in the
12 order received by the taxation and revenue department.

13 I. The taxation and revenue department shall
14 compile an annual report that includes the number of taxpayers
15 approved by the department to receive a state graduate
16 employment tax credit. Notwithstanding any other section of
17 law to the contrary, the taxation and revenue department and
18 the higher education department may disclose the number of
19 applicants for the state graduate employment income tax credit,
20 the amount of each credit approved, the number of qualified
21 state graduates hired, the length of time the qualified state
22 graduate is employed while the taxpayer received the tax credit
23 and any other information required by the legislature or the
24 taxation and revenue department to aid in evaluating the
25 effectiveness of the state graduate employment tax credit.

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

K. As used in this section, "qualified state graduate" means an individual who is hired within one year of graduation from one of the state educational institutions enumerated in Article 12, Section 11 of the constitution of New Mexico and who works at least forty hours per week for at least seven months during the taxable year for which the state graduate employment tax credit is claimed."

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