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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

N. As used in this section:

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

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

(a) is a New Mexico resident;

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

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

(d) receives benefits and works at least

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

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

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

A. A taxpayer that is a New Mexico corporation and that files a corporate income tax return 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 months during the first taxable year for which the return is filed and for twelve months during the second taxable year for which the return is filed. The tax credit provided by this section may be referred to as the "state graduate employment tax credit".

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

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

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

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

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

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

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

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

F. The higher education department shall adopt rules establishing procedures to certify qualified state graduates for purposes of obtaining a state graduate employment tax credit. The rules shall ensure that not more than one state graduate employment tax credit per qualified state graduate shall be allowed in a taxable year and that the credits allowed per qualified state graduate are limited to a maximum of two years. The higher education department shall issue a dated certificate of eligibility containing a list of the qualified state graduates employed by the taxpayer claiming the state graduate employment tax credit, including identifying information such as the social security number of the employee, the date of graduation and the name of the state educational institution from which the employee graduated, the date of employment of the employee by the taxpayer and the number of hours worked per week by the employee. All certificates of eligibility issued pursuant to this subsection shall be sequentially numbered, and an account of all certificates issued or destroyed shall be maintained by the higher education department. The taxation and revenue department shall audit the records of the state graduate employment tax credit maintained by the higher education department on a periodic basis to ensure effective administration of the state graduate

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

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

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

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

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

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

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

L. As used in this section:

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

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

(a) is a New Mexico resident;

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

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

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

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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.

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