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HOUSE BILL 239

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Thomas A. Garcia

ENDORSED BY THE MILITARY AND VETERANS' AFFAIRS COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING THE VETERAN 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]~~ VETERAN 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 military veteran who is employed full time in New Mexico by the taxpayer for at least eight

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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 "veteran employment tax credit".

4 B. The purpose of the veteran employment tax credit
5 is to encourage the full-time employment of qualified military
6 veterans within the first year of discharge from the armed
7 forces of the United States.

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

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

23 E. A husband and wife filing separate returns for a
24 taxable year for which they could have filed a joint return may
25 each claim only one-half of the veteran employment tax credit

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1 that would have been claimed on a joint return.

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

10 G. The taxpayer shall submit to the veterans'
11 services department with respect to each employee for whom the
12 veteran employment tax credit is claimed:

13 (1) information required by the secretary of
14 veterans' services with respect to the employee's employment by
15 the taxpayer during the taxable year for which the veteran
16 employment tax credit is claimed; and

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

23 H. The veterans' services department shall adopt
24 rules establishing procedures to certify qualified military
25 veterans for purposes of obtaining a veteran employment tax

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

22 I. To claim a veteran employment tax credit, the
23 taxpayer shall provide to the taxation and revenue department
24 the certificate of eligibility issued by the veterans' services
25 department pursuant to this section to the taxpayer for the

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1 taxable year for which the veteran employment tax credit is
2 claimed.

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

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

21 L. An appropriate legislative committee shall
22 review the effectiveness of the veteran employment tax credit
23 every five years beginning in 2016.

24 M. As used in this section:

25 (1) "New Mexico business" means a business

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1 that carries on a trade or business in New Mexico; and

2 (2) "qualified military veteran" means an
3 individual who is hired within one year of receipt of an
4 honorable discharge from a branch of the United States military
5 and who works at least forty hours per week for at least eight
6 months during the taxable year for which the veteran employment
7 tax credit is claimed."

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

10 "[NEW MATERIAL] VETERAN EMPLOYMENT TAX CREDIT.--

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

19 B. The purpose of the veteran employment tax credit
20 is to encourage the full-time employment of qualified military
21 veterans within the first year of discharge from the armed
22 forces of the United States.

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

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1 provided that the taxpayer may not claim the veteran employment
2 tax credit for any individual qualified military veteran for
3 more than two calendar years from the date of hire.

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

10 E. The taxpayer shall submit to the veterans'
11 services department with respect to each employee for whom the
12 veteran employment tax credit is claimed:

13 (1) information required by the secretary of
14 veterans' services with respect to the employee's employment by
15 the taxpayer during the taxable year for which the veteran
16 employment tax credit is claimed; and

17 (2) information required by the secretary of
18 veterans' services establishing that the employee is a
19 qualified military veteran and was not also employed in the
20 same taxable year by another taxpayer claiming a veteran
21 employment tax credit for that employee pursuant to this
22 section or the Income Tax Act.

23 F. The veterans' services department shall adopt
24 rules establishing procedures to certify qualified military
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9 as the social security number of the employee, the date of
10 honorable discharge from military service of the employee, the
11 date of employment of the employee by the taxpayer and the
12 number of hours worked per week by the employee. All
13 certificates of eligibility issued pursuant to this subsection
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17 department shall audit the records of the veteran employment
18 tax credit maintained by the veterans' services department on a
19 periodic basis to ensure effective administration of the
20 veteran employment tax credit and compliance with the Tax
21 Administration Act and this section.

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8 I. The taxation and revenue department shall
9 compile an annual report that includes the number of taxpayers
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11 credit. Notwithstanding any other section of law to the
12 contrary, the taxation and revenue department and the veterans'
13 services department may disclose the number of applicants for
14 the veteran employment income tax credit, the amount of each
15 credit approved, the number of veterans hired, the length of
16 time the veteran is employed while the taxpayer received the
17 tax credit and any other information required by the
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4 honorable discharge from a branch of the United States military
5 and who works at least forty hours per week for at least eight
6 months during the taxable year for which the veteran employment
7 tax credit is claimed."

8 SECTION 3. APPLICABILITY.--The provisions of this act
9 apply to taxable years beginning on or after January 1, 2011.