

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

.188803.1

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

.188803.1

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

.188803.1

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

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;

.188803.1

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.