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HOUSE BILL 306

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

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING THE FAMILY REUNIFICATION 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] FAMILY REUNIFICATION 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 New Mexican who is employed full

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1 time in New Mexico by the taxpayer for at least twelve months
2 during the taxable year for which the return is filed. The tax
3 credit provided by this section may be referred to as the
4 "family reunification employment tax credit".

5 B. The purpose of the family reunification
6 employment tax credit is to encourage the full-time employment
7 of qualified New Mexicans and to foster a climate of economic
8 development and prosperity in New Mexico that allows
9 individuals born in New Mexico, who left New Mexico or remained
10 out of state due to the lack of employment opportunities in New
11 Mexico, to return to New Mexico and their families.

12 C. A taxpayer who is the owner of a New Mexico sole
13 proprietorship, partnership or limited liability company may
14 claim the family reunification employment tax credit provided
15 in this section for each taxable year in which the taxpayer
16 employs one or more qualified New Mexicans; provided that the
17 taxpayer may not claim the family reunification employment tax
18 credit for any individual qualified New Mexican for more than
19 two taxable years. A taxpayer shall apply for approval for a
20 credit within one year following the end of the calendar year
21 in which the taxpayer employs the qualified New Mexican upon
22 which the credit is predicated.

23 D. That portion of a family reunification
24 employment tax credit approved by the taxation and revenue
25 department that exceeds a taxpayer's income tax liability in

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1 the taxable year in which the family reunification employment
2 tax credit is claimed shall not be refunded to the taxpayer.
3 The family reunification employment tax credit shall not be
4 carried forward or transferred to another taxpayer.

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

9 F. A taxpayer who otherwise qualifies and claims a
10 family reunification employment tax credit in New Mexico that
11 may be claimed by a partnership or limited liability company of
12 which the taxpayer is a member may claim a credit only in
13 proportion to the taxpayer's interest in the partnership or
14 limited liability company. The total credit claimed by all
15 members of the partnership or limited liability company shall
16 not exceed the allowable credit pursuant to Subsection A of
17 this section.

18 G. The taxpayer shall submit to the economic
19 development department with respect to each employee for whom
20 the family reunification employment tax credit is claimed:

21 (1) information required by the secretary of
22 economic development with respect to the employee's employment
23 by the taxpayer during the taxable year for which the family
24 reunification employment tax credit is claimed; and

25 (2) information required by the secretary of

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1 economic development establishing that the employee is a
2 qualified New Mexican and was not also employed in the same
3 taxable year by another taxpayer claiming a family
4 reunification employment tax credit for that employee pursuant
5 to this section or the Corporate Income and Franchise Tax Act.

6 H. The economic development department shall adopt
7 rules establishing procedures to certify qualified New Mexicans
8 for purposes of obtaining a family reunification employment tax
9 credit. The rules shall ensure that not more than one family
10 reunification employment tax credit per qualified New Mexican
11 shall be allowed in a taxable year and that the credits allowed
12 per qualified New Mexican are limited to a maximum of two
13 years. The economic development department shall issue a dated
14 certificate of eligibility containing a list of the qualified
15 New Mexicans employed by the taxpayer claiming the family
16 reunification employment tax credit, including identifying
17 information such as the social security number of the employee,
18 the previous residence of the employee for the past four years,
19 the date of employment of the employee by the taxpayer and the
20 number of hours worked per week by the employee. All
21 certificates of eligibility issued pursuant to this subsection
22 shall be sequentially numbered, and an account of all
23 certificates issued or destroyed shall be maintained by the
24 economic development department. The taxation and revenue
25 department shall audit the records of the family reunification

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1 employment tax credit maintained by the economic development
2 department on a periodic basis to ensure effective
3 administration of the family reunification employment tax
4 credit and compliance with the Tax Administration Act and this
5 section.

6 I. To claim a family reunification employment tax
7 credit, the taxpayer shall provide to the taxation and revenue
8 department the certificate of eligibility issued by the
9 economic development department pursuant to this section to the
10 taxpayer for the taxable year for which the family
11 reunification employment tax credit is claimed.

12 J. A taxpayer who claims and is granted approval
13 for the family reunification employment tax credit shall not
14 apply for or be granted approval for the rural job tax credit,
15 the high-wage jobs tax credit or the additional credit pursuant
16 to the Technology Jobs Tax Credit Act.

17 K. The taxation and revenue department may allow a
18 maximum annual aggregate of two million dollars (\$2,000,000) in
19 family reunification employment tax credits provided by this
20 section and the Corporate Income and Franchise Tax Act.
21 Applications for the family reunification employment tax credit
22 shall be considered in the order received by the taxation and
23 revenue department.

24 L. The economic development department shall track
25 state expenditures, quantify the state's return on investment

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1 and track job creation as a result of the family reunification
2 employment tax credit.

3 M. 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 family reunification
6 employment tax credit. Notwithstanding any other section of
7 law to the contrary, the taxation and revenue department and
8 the economic development department may disclose the number of
9 applicants for the family reunification employment tax credit,
10 the amount of each credit approved, the number of qualified New
11 Mexicans hired, the length of time that the qualified New
12 Mexican is employed while the taxpayer received the family
13 reunification employment tax credit and any other information
14 required by the legislature or the taxation and revenue
15 department to aid in evaluating the effectiveness of the family
16 reunification employment tax credit. The report shall be
17 presented to the interim revenue stabilization and tax policy
18 committee and to the legislative finance committee.

19 N. An appropriate legislative committee shall
20 review the effectiveness of the family reunification employment
21 tax credit every four years beginning in 2015.

22 O. As used in this section:

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

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- 1 (2) "qualified New Mexican" means an
2 individual who:
3 (a) is a New Mexico resident;
4 (b) files an individual New Mexico
5 income tax return;
6 (c) receives benefits and works at least
7 forty hours per week for at least twelve months during the
8 taxable year for which the family reunification employment tax
9 credit is claimed;
10 (d) was born in New Mexico;
11 (e) was not a resident of New Mexico
12 prior to being employed by the taxpayer claiming the family
13 reunification employment tax credit for at least two years; and
14 (f) was gainfully employed out of New
15 Mexico for at least two years."

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

18 "[NEW MATERIAL] FAMILY REUNIFICATION EMPLOYMENT TAX
19 CREDIT.--

20 A. A taxpayer that is a New Mexico corporation and
21 that files a corporate income tax return may claim a credit in
22 an amount equal to five thousand dollars (\$5,000) of the gross
23 wages paid to each qualified New Mexican who is employed full
24 time in New Mexico by the taxpayer for at least twelve months
25 during the taxable year for which the return is filed. The tax

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1 credit provided by this section may be referred to as the
2 "family reunification employment tax credit".

3 B. The purpose of the family reunification
4 employment tax credit is to encourage the full-time employment
5 of qualified New Mexicans and to foster a climate of economic
6 development and prosperity in New Mexico that allows
7 individuals born in New Mexico, who left New Mexico or remained
8 out of state due to the lack of employment opportunities in New
9 Mexico, to return to New Mexico and their families.

10 C. A taxpayer may claim the family reunification
11 employment tax credit provided in this section for each taxable
12 year in which the taxpayer employs one or more qualified New
13 Mexicans; provided that the taxpayer may not claim the family
14 reunification employment tax credit for any individual
15 qualified New Mexican for more than two calendar years from the
16 date of hire. A taxpayer shall apply for approval for a credit
17 within one year following the end of the calendar year in which
18 the taxpayer employs the qualified New Mexican upon which the
19 credit is predicated.

20 D. That portion of a family reunification
21 employment tax credit approved by the taxation and revenue
22 department that exceeds a taxpayer's corporate income tax
23 liability in the taxable year in which the credit is claimed
24 shall not be refunded to the taxpayer. The family
25 reunification employment tax credit shall not be carried

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1 forward or transferred to another taxpayer.

2 E. The taxpayer shall submit to the economic
3 development department with respect to each employee for whom
4 the family reunification employment tax credit is claimed:

5 (1) information required by the secretary of
6 economic development with respect to the employee's employment
7 by the taxpayer during the taxable year for which the family
8 reunification employment tax credit is claimed; and

9 (2) information required by the secretary of
10 economic development establishing that the employee is a
11 qualified New Mexican and was not also employed in the same
12 taxable year by another taxpayer claiming a family
13 reunification employment tax credit for that employee pursuant
14 to this section or the Income Tax Act.

15 F. The economic development department shall adopt
16 rules establishing procedures to certify qualified New Mexicans
17 for purposes of obtaining a family reunification employment tax
18 credit. The rules shall ensure that not more than one family
19 reunification employment tax credit per qualified New Mexican
20 shall be allowed in a taxable year and that the credits allowed
21 per qualified New Mexican are limited to a maximum of two
22 years. The economic development department shall issue a dated
23 certificate of eligibility containing a list of the qualified
24 New Mexicans employed by the taxpayer claiming the family
25 reunification employment tax credit, including identifying

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1 information such as the social security number of the employee,
2 the previous residence of the employee for the past four years,
3 the date of employment of the employee by the taxpayer and the
4 number of hours worked per week by the employee. All
5 certificates of eligibility issued pursuant to this subsection
6 shall be sequentially numbered, and an account of all
7 certificates issued or destroyed shall be maintained by the
8 economic development department. The taxation and revenue
9 department shall audit the records of the family reunification
10 employment tax credit maintained by the economic development
11 department on a periodic basis to ensure effective
12 administration of the family reunification employment tax
13 credit and compliance with the Tax Administration Act and this
14 section.

15 G. To claim a family reunification employment tax
16 credit, the taxpayer shall provide to the taxation and revenue
17 department the certificate of eligibility issued by the
18 economic development department pursuant to this section to the
19 taxpayer for the taxable year for which the family
20 reunification employment tax credit is claimed.

21 H. A taxpayer who claims and is granted approval
22 for the family reunification employment tax credit shall not
23 apply for or be granted approval for the rural job tax credit,
24 the high-wage jobs tax credit or the additional credit pursuant
25 to the Technology Jobs Tax Credit Act.

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1 I. The taxation and revenue department may allow a
2 maximum annual aggregate of two million dollars (\$2,000,000) in
3 family reunification employment tax credits provided by this
4 section and the Income Tax Act. Applications for the family
5 reunification employment tax credit shall be considered in the
6 order received by the taxation and revenue department.

7 J. The economic development department shall track
8 state expenditures, quantify the state's return on investment
9 and track job creation as a result of the family reunification
10 employment tax credit.

11 K. The taxation and revenue department shall
12 compile an annual report that includes the number of taxpayers
13 approved by the department to receive a family reunification
14 employment tax credit. Notwithstanding any other section of
15 law to the contrary, the taxation and revenue department and
16 the economic development department may disclose the number of
17 applicants for the family reunification employment tax credit,
18 the amount of each credit approved, the number of qualified New
19 Mexicans hired, the length of time that the qualified New
20 Mexican is employed while the taxpayer received the tax credit
21 and any other information required by the legislature or the
22 taxation and revenue department to aid in evaluating the
23 effectiveness of the family reunification employment tax
24 credit. The report shall be presented to the interim revenue
25 stabilization and tax policy committee and to the legislative

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1 finance committee.

2 L. An appropriate legislative committee shall
3 review the effectiveness of the family reunification employment
4 tax credit every four years beginning in 2015.

5 M. As used in this section:

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

9 (2) "qualified New Mexican" means an
10 individual who:

11 (a) is a New Mexico resident;

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

14 (c) receives benefits and works at least
15 forty hours per week for at least twelve months during the
16 taxable year for which the family reunification employment tax
17 credit is claimed;

18 (d) was born in New Mexico;

19 (e) was not a resident of New Mexico
20 prior to being employed by the taxpayer claiming the family
21 reunification employment tax credit for at least two years; and

22 (f) was gainfully employed out of New
23 Mexico for at least two years."

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

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