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HOUSE BILL 561

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

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO TAXATION; CREATING POST-SECONDARY INTERN INCOME TAX
AND CORPORATE INCOME TAX CREDITS.

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]~~ POST-SECONDARY INTERN INCOME TAX CREDIT.--

A. A taxpayer who files a New Mexico income tax
return and is not a dependent of another taxpayer may claim,
and the department may approve, a credit against the income tax
liability of the taxpayer for employing a student participating
in an internship program or class at a post-secondary
educational institution in New Mexico. The credit may be
approved in an amount equal to ten percent of the wages paid to
the intern. The credit provided in this section may be

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1 referred to as the "post-secondary intern income tax credit".

2 B. The purpose of the post-secondary intern income
3 tax credit is to encourage businesses to employ university
4 students who are enrolled in internship programs or classes at
5 post-secondary educational institutions, to develop an
6 employment-ready work force for businesses in the state and to
7 encourage the hiring of graduates of post-secondary educational
8 institutions.

9 C. To ensure that the department receives the
10 information needed to allow a post-secondary intern income tax
11 credit, the department shall develop a schedule that may be
12 added to the taxpayer's income tax return if the taxpayer
13 claims a post-secondary intern income tax credit, that provides
14 information sufficient to identify taxpayers who are eligible
15 to receive a post-secondary intern income tax credit and
16 further provides the department with information necessary to
17 analyze the effectiveness of the credit.

18 D. A husband and wife who file separate returns for
19 a taxable year in which they could have filed a joint return
20 may each claim only one-half of the post-secondary intern
21 income tax credit that would have been allowed on a joint
22 return.

23 E. A taxpayer who otherwise qualifies for and
24 claims a post-secondary intern income tax credit who is a
25 member of a partnership or other business association may claim

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1 a credit only in proportion to the taxpayer's interest in the
2 partnership or business association. The total credit claimed
3 in the aggregate by all members of the partnership or business
4 association in a taxable year with respect to wages paid to an
5 intern shall not exceed the maximum credit that would have been
6 allowable pursuant to this section if claimed by a single
7 taxpayer.

8 F. Any amount of the post-secondary intern income
9 tax credit allowed by the department that exceeds the income
10 tax liability of the taxpayer in the taxable year in which the
11 credit is first claimed may be carried forward for three
12 consecutive taxable years.

13 G. The department shall compile a report annually
14 for the revenue stabilization and tax policy committee that
15 sets forth the number of taxpayers approved to receive post-
16 secondary intern income tax credits, the aggregate amount of
17 credits approved and the average and median amounts of credits
18 approved. The department shall analyze every three years
19 beginning in 2013 whether the post-secondary intern income tax
20 credit is performing the purpose for which it was created.

21 H. A taxpayer that claims a post-secondary intern
22 income tax credit pursuant to the Income Tax Act shall not also
23 claim a post-secondary intern income tax credit pursuant to the
24 Corporate Income and Franchise Tax Act or any other similar tax
25 credit for the same wages paid to an intern. The post-

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1 secondary intern income tax credit shall be applied to the
2 taxpayer's tax liability before application of any other tax
3 credit claimed for the taxable year by the taxpayer.

4 I. Acceptance of the post-secondary intern income
5 tax credit is authorization for the department to reveal the
6 amount of the tax credit claimed by the taxpayer as needed to
7 report fully as required by this section to the revenue
8 stabilization and tax policy committee of the legislature.

9 J. As used in this section:

10 (1) "intern" means a student enrolled in a
11 class or program at the post-secondary educational institution
12 that the student is attending that places a student:

13 (a) in employment in a position within
14 the area of specialty in which the student is seeking a degree
15 or with private industry or another business in a career-path
16 position in which the student provides professional services
17 under the supervision of more senior professional staff of the
18 employer and from whom the student receives guidance, training
19 and mentoring in planning and carrying out activities and
20 assignments;

21 (b) in a position for a one- or two-year
22 period;

23 (c) under the supervision of a faculty
24 advisor that provides oversight of the student's progress as an
25 intern and guidance in the student's area of specialty; and

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1 (d) in a position for which the student
2 is paid and receives credits toward a degree;

3 (2) "post-secondary educational institution"
4 means a post-secondary educational institution named in Article
5 12, Section 11 of the constitution of New Mexico or a community
6 college created pursuant to the Community College Act or the
7 Technical and Vocational Institute Act; and

8 (3) "student" means an individual who is
9 enrolled as a full-time undergraduate or master's level student
10 at a post-secondary educational institution."

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

13 "[NEW MATERIAL] POST-SECONDARY INTERN CORPORATE INCOME
14 TAX CREDIT.--

15 A. A taxpayer that files a New Mexico corporate
16 income tax return may claim, and the department may approve, a
17 credit against the corporate income tax liability of the
18 taxpayer for employing a student participating in an internship
19 program or class at a post-secondary educational institution in
20 New Mexico. The credit may be approved in an amount equal to
21 ten percent of the wages paid to the intern. The credit
22 provided in this section may be referred to as the "post-
23 secondary intern corporate income tax credit".

24 B. The purpose of the post-secondary intern
25 corporate income tax credit is to encourage businesses to

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1 employ university students who are enrolled in internship
2 programs or classes at post-secondary educational institutions,
3 to develop an employment-ready work force for businesses in the
4 state and to encourage the hiring of graduates of post-
5 secondary educational institutions.

6 C. To ensure that the department receives the
7 information needed to allow a post-secondary intern corporate
8 income tax credit, the department shall develop a schedule that
9 may be added to the taxpayer's income tax return if the
10 taxpayer claims a post-secondary intern corporate income tax
11 credit, that provides information sufficient to identify
12 taxpayers that are eligible to receive a post-secondary intern
13 corporate income tax credit and further provides the department
14 with information necessary to analyze the effectiveness of the
15 credit.

16 D. Any amount of the post-secondary intern
17 corporate income tax credit allowed by the department that
18 exceeds the income tax liability of the taxpayer in the taxable
19 year in which the credit is first claimed may be carried
20 forward for three consecutive taxable years.

21 E. The department shall compile a report annually
22 for the revenue stabilization and tax policy committee that
23 sets forth the number of taxpayers approved to receive post-
24 secondary intern corporate income tax credits, the aggregate
25 amount of credits approved and the average and median amounts

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1 of credits approved. The department shall analyze every three
2 years beginning in 2013 whether the post-secondary intern
3 corporate income tax credit is performing the purpose for which
4 it was created.

5 F. A taxpayer that claims a post-secondary intern
6 corporate income tax credit pursuant to the Corporate Income
7 and Franchise Tax Act shall not also claim a post-secondary
8 intern income tax credit pursuant to the Income Tax Act or any
9 other similar tax credit for the same wages paid to an intern.
10 The post-secondary intern corporate income tax credit shall be
11 applied to the taxpayer's tax liability before application of
12 any other tax credit claimed for the taxable year by the
13 taxpayer.

14 G. Acceptance of the post-secondary intern
15 corporate income tax credit is authorization for the department
16 to reveal the amount of the tax credit claimed by the taxpayer
17 as needed to report fully as required by this section to the
18 revenue stabilization and tax policy committee of the
19 legislature.

20 H. As used in this section:

21 (1) "intern" means a student enrolled in a
22 class or program at the post-secondary educational institution
23 that the student is attending that places a student:

24 (a) in employment in a position within
25 the area of specialty in which the student is seeking a degree

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1 or with private industry or another business in a career-path
2 position in which the student provides professional services
3 under the supervision of more senior professional staff of the
4 employer and from whom the student receives guidance, training
5 and mentoring in planning and carrying out activities and
6 assignments;

7 (b) in a position for a one- or two-year
8 period;

9 (c) under the supervision of a faculty
10 advisor that provides oversight of the student's progress as an
11 intern and guidance in the student's area of specialty; and

12 (d) in a position for which the student
13 is paid and receives credits toward a degree;

14 (2) "post-secondary educational institution"
15 means a post-secondary educational institution named in Article
16 12, Section 11 of the constitution of New Mexico or a community
17 college created pursuant to the Community College Act or the
18 Technical and Vocational Institute Act; and

19 (3) "student" means an individual who is
20 enrolled as a full-time undergraduate or master's level student
21 at a post-secondary educational institution."

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

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