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SENATE BILL 559

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR  
EMPLOYERS FOR A PORTION OF THE COST OF PROVIDING PAID FAMILY  
MEDICAL LEAVE.

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] CREDIT--EMPLOYEE FAMILY MEDICAL LEAVE PAID  
BY EMPLOYER.--

A. A taxpayer who is an employer, who files an  
individual New Mexico income tax return and who has not offered  
to employees family medical leave in any one of the four years  
prior to the taxable year for which the credit is claimed may  
claim a credit in an amount equal to twenty-five percent of the  
amount paid by the taxpayer in a taxable year for the wage

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1 costs for up to three months of either leave for the employee  
2 taking family medical leave or the costs of replacement of the  
3 employee while the employee is on family medical leave,  
4 whichever is greater. The tax credit provided by this section  
5 may be referred to as the "family medical leave income tax  
6 credit".

7 B. A husband and wife who file separate returns for  
8 a taxable year in which they could have filed a joint return  
9 may each claim only one-half of the family medical leave income  
10 tax credit that would have been allowed on a joint return.

11 C. A family medical leave income tax credit may be  
12 claimed by a taxpayer for a total of eight taxable years,  
13 regardless of whether the years are consecutive.

14 D. A taxpayer who otherwise qualifies and claims a  
15 credit pursuant to Subsection A of this section and who is a  
16 member of a partnership or business association that is the  
17 employer incurring the family medical leave cost may claim a  
18 credit only in proportion to the taxpayer's interest in the  
19 partnership or association. The total credit claimed by all  
20 members of the partnership or association shall not exceed  
21 twenty-five percent of the family medical leave cost paid by  
22 the partnership or association in the taxable year.

23 E. The credit provided in this section may only be  
24 deducted from the taxpayer's income tax liability for the  
25 taxable year for which the credit is claimed.

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1 F. A taxpayer claiming the family medical leave  
2 income tax credit pursuant to this section in a taxable year  
3 shall not claim a family medical leave corporate income tax  
4 credit pursuant to the Corporate Income and Franchise Tax Act  
5 for the same employee expenses in the same taxable year.

6 G. For the purposes of this section, "family  
7 medical leave" means leave taken by an employee in connection  
8 with:

9 (1) the birth of a child of the employee or  
10 adoption of a child by the employee; or

11 (2) the care of a child, spouse or parent of  
12 the employee who has a health condition that:

13 (a) necessitates inpatient care in a  
14 hospital, hospice or residential health care facility; or

15 (b) requires continuing treatment or  
16 continuing supervision by a health care provider."

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

19 "[NEW MATERIAL] CREDIT--EMPLOYEE FAMILY MEDICAL LEAVE PAID  
20 BY EMPLOYER.--

21 A. A taxpayer that is an employer, that files a  
22 corporate income tax return and that has not offered to  
23 employees family medical leave in any one of the four years  
24 prior to the taxable year for which the credit is claimed may  
25 claim a credit in an amount equal to twenty-five percent of the

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1 amount paid by the taxpayer in a taxable year for the wage  
2 costs for up to three months of either leave for the employee  
3 taking family medical leave or the costs of replacement of the  
4 employee while the employee is on family medical leave,  
5 whichever is greater. The tax credit provided by this section  
6 may be referred to as the "family medical leave corporate  
7 income tax credit".

8 B. A family medical leave corporate income tax  
9 credit may be claimed by a taxpayer for a total of eight  
10 taxable years, regardless of whether the years are consecutive.

11 C. A taxpayer that otherwise qualifies and claims a  
12 credit pursuant to Subsection A of this section and that is a  
13 member of a partnership or business association that is the  
14 employer incurring the family medical leave cost may claim a  
15 credit only in proportion to the taxpayer's interest in the  
16 partnership or association. The total credit claimed by all  
17 members of the partnership or association shall not exceed  
18 twenty-five percent of the family medical leave cost paid by  
19 the partnership or association in the taxable year.

20 D. The credit provided in this section may only be  
21 deducted from the taxpayer's corporate income tax liability for  
22 the taxable year for which the credit is claimed.

23 E. A taxpayer claiming the family medical leave  
24 corporate income tax credit pursuant to this section in a  
25 taxable year shall not claim a family medical leave income tax

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1 credit pursuant to the Income Tax Act for the same employee  
2 expenses in the same taxable year.

3 F. For the purposes of this section, "family  
4 medical leave" means leave taken by an employee in connection  
5 with:

6 (1) the birth of a child of the employee or  
7 adoption of a child by the employee; or

8 (2) the care of a child, spouse or parent of  
9 the employee who has a health condition that:

10 (a) necessitates inpatient care in a  
11 hospital, hospice or residential health care facility; or

12 (b) requires continuing treatment or  
13 continuing supervision by a health care provider."

14 Section 3. APPLICABILITY.--The provisions of this act  
15 apply to taxable years beginning on or after January 1, 2009.