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SENATE BILL 570

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.