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SENATE BILL 745

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR SMALL  
BUSINESSES WHO REMOVE BARRIERS AND MAKE OTHER MODIFICATIONS TO  
PROVIDE ACCESS TO DISABLED INDIVIDUALS AND ENABLE THE BUSINESS  
TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT OF 1990.

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--SMALL BUSINESSES--DISABLED ACCESS  
EXPENDITURES. --

A. To encourage small businesses to provide access  
to disabled individuals and to comply with the Americans with  
Disabilities Act of 1990, a taxpayer who files an individual  
New Mexico income tax return and who is an eligible small  
business or an owner of a pass-through business entity that is

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1 an eligible small business that has claimed a disabled access  
2 credit for eligible access expenditures made in the taxable  
3 year pursuant to Section 44 of the Internal Revenue Code may  
4 claim a credit in an amount equal to twenty-five percent of  
5 those eligible access expenditures made in the taxable year,  
6 not to exceed five thousand dollars (\$5,000).

7 B. The taxpayer may claim the credit provided in  
8 this section for each taxable year in which the taxpayer  
9 qualifies as an eligible small business and claims the federal  
10 disabled access credit for eligible access expenditures.

11 C. The credit provided in this section may only be  
12 deducted from the taxpayer's income tax liability. Any  
13 portion of the maximum tax credit provided by this section  
14 that remains unused at the end of the taxpayer's taxable year  
15 may be carried forward for two consecutive taxable years,  
16 provided that the total tax credits claimed under this section  
17 shall not exceed the maximum amount of credit allowed for any  
18 taxable year.

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

23 E. A taxpayer who otherwise qualifies and claims a  
24 credit for qualified expenditures made by a pass-through  
25 business entity of which the taxpayer is an owner may claim a

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1 credit only in proportion to his ownership share of the pass-  
2 through business entity. The total credit claimed by all  
3 members of the pass-through business entity shall not exceed  
4 the aggregate amount of credit allowed pursuant to this  
5 section.

6 F. As used in this section:

7 (1) "owner" means a partner in a partnership  
8 not taxed as a corporation for federal income tax purposes for  
9 the taxable year, a shareholder of an S corporation or of a  
10 corporation other than an S corporation that is not taxed as a  
11 corporation for federal income tax purposes for the taxable  
12 year, a member of a limited liability company or any similar  
13 person holding an ownership interest in a pass-through entity;  
14 and

15 (2) "pass-through business entity" means any  
16 business association other than:

17 (a) a sole proprietorship;  
18 (b) an estate or trust; or  
19 (c) a corporation, limited liability  
20 company, partnership or other entity not a sole proprietorship  
21 taxed as a corporation for federal income tax purposes for the  
22 taxable year. "

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

25 " [NEW MATERIAL] CREDIT--SMALL BUSINESSES--DISABLED ACCESS

. 136770. 1

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1 EXPENDITURES. --

2 A. To encourage small businesses to provide access  
3 to disabled individuals and to comply with the Americans with  
4 Disabilities Act of 1990, a taxpayer that files a corporate  
5 income tax return and that is an eligible small business that  
6 has claimed a disabled access credit for eligible access  
7 expenditures made in the taxable year pursuant to Section 44  
8 of the Internal Revenue Code may claim a credit in an amount  
9 equal to twenty-five percent of those eligible access  
10 expenditures made in the taxable year, not to exceed five  
11 thousand dollars (\$5,000).

12 B. The taxpayer may claim the credit provided in  
13 this section for each taxable year in which the taxpayer  
14 qualifies as an eligible small business that claims the  
15 federal disabled access credit for eligible access  
16 expenditures.

17 C. The credit provided in this section may only be  
18 deducted from the taxpayer's income tax liability. Any  
19 portion of the maximum tax credit provided by this section  
20 that remains unused at the end of the taxpayer's taxable year  
21 may be carried forward for three consecutive taxable years,  
22 provided that the total tax credits claimed under this section  
23 shall not exceed the maximum amount of credit allowed for any  
24 taxable year. "

25 Section 3. APPLICABILITY. -- The provisions of this act

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apply to taxable years beginning on or after January 1, 2001.

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