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**HOUSE BILL 887**

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

**INTRODUCED BY**

**Ben Lujan**

**AN ACT**

**RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT  
AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE A  
CREDIT FOR CERTAIN TRIBAL TAXES.**

**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 FOR QUALIFYING TRIBAL TAX ON  
ECONOMIC DEVELOPMENT PROPERTY. --**

**A. A taxpayer who files an individual New Mexico  
income tax return may claim a credit in an amount determined  
pursuant to Subsection B of this section if the taxpayer or a  
pass-through business entity of which the taxpayer is an owner  
paid a qualifying tribal tax on economic development property  
during the taxable year.**

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1           B. The amount of the credit provided in this  
2 section shall be equal to the lesser of the amount of the  
3 qualifying tribal tax imposed and paid in the taxable year on  
4 the economic development property or the amount of property  
5 tax imposed and paid in the taxable year on the same economic  
6 development property pursuant to Section 7-37-7 NMSA 1978. If  
7 the taxes were paid by a pass-through business entity of which  
8 the taxpayer is an owner, the taxpayer may claim the portion  
9 of the credit allocated to the taxpayer by the pass-through  
10 business entity. The total credit claimed by all owners of  
11 the pass-through business entity shall not exceed the amount  
12 of the credit authorized in a taxable year pursuant to this  
13 subsection.

14           C. A husband and wife who file separate returns  
15 for a taxable year in which they could have filed a joint  
16 return may each claim only one-half of the credit provided  
17 under this section that would have been allowed on a joint  
18 return.

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

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1 section.

2 E. As used in this section:

3 (1) "economic development property" means:

4 (a) buildings and other improvements of  
5 land constructed or leased after January 1, 2000, but not  
6 including property subject to valuation under Sections 7-36-22  
7 through 7-36-31 NMSA 1978;

8 (b) tangible personal property subject  
9 to valuation under Section 7-36-33 NMSA 1978 constructed or  
10 acquired by the taxpayer after January 1, 2000; and

11 (c) tangible personal property  
12 described in Paragraph (7) of Subsection B of Section 7-36-8  
13 NMSA 1978 acquired by the taxpayer after January 1, 2000;

14 (2) "owner" means a partner in a partnership  
15 not taxed as a corporation for federal income tax purposes for  
16 the taxable year, a shareholder of an S corporation or of a  
17 corporation other than an S corporation that is not taxed as a  
18 corporation for federal income tax purposes for the taxable  
19 year, a member of a limited liability company or any similar  
20 person holding an ownership interest in a pass-through  
21 business entity;

22 (3) "pass-through business entity" means any  
23 business association other than:

24 (a) a sole proprietorship;

25 (b) an estate or trust; or

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1 (c) a corporation, limited liability  
2 company, partnership or other entity not a sole proprietorship  
3 taxed as a corporation for federal income tax purposes for the  
4 taxable year;

5 (4) "qualifying tribal tax" means an ad  
6 valorem property tax imposed by Santa Ana Pueblo on economic  
7 development property located on Santa Ana Pueblo land; and

8 (5) "Santa Ana Pueblo land" means all land  
9 located within the exterior boundaries of the Santa Ana  
10 reservation or pueblo grant and all land held by the United  
11 States in trust for Santa Ana Pueblo. "

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

14 "[NEW MATERIAL] CREDIT FOR QUALIFYING TRIBAL TAX ON  
15 ECONOMIC DEVELOPMENT PROPERTY. --

16 A. A taxpayer who files a corporate income tax  
17 return may claim a credit for an amount determined pursuant to  
18 Subsection B of this section if the taxpayer paid a qualifying  
19 tribal tax on economic development property during the taxable  
20 year.

21 B. The amount of the credit provided in this  
22 section shall be equal to the lesser of the amount of the  
23 qualifying tribal tax imposed and paid on the economic  
24 development property or the amount of property tax imposed and  
25 paid on the same property pursuant to Section 7-37-7 NMSA

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1 1978.

2 C. The credit provided in this section may only be  
3 deducted from the taxpayer's corporate income tax liability.  
4 Any portion of the credit provided by this section that  
5 remains unused at the end of the taxpayer's taxable year may  
6 be carried forward for three consecutive taxable years,  
7 provided that the total tax credits claimed under this section  
8 shall not exceed the maximum amount authorized in this  
9 section.

10 D. As used in this section:

11 (1) "economic development property" means:

12 (a) buildings and other improvements of  
13 land constructed or leased after January 1, 2000, but not  
14 including property subject to valuation under Sections 7-36-22  
15 through 7-36-31 NMSA 1978;

16 (b) tangible personal property subject  
17 to valuation under Section 7-36-33 NMSA 1978 constructed or  
18 acquired by the taxpayer after January 1, 2000; and

19 (c) tangible personal property  
20 described in Paragraph (7) of Subsection B of Section 7-36-8  
21 NMSA 1978 acquired by the taxpayer after January 1, 2000;

22 (2) "qualifying tribal tax" means an ad  
23 valorem property tax imposed by Santa Ana Pueblo on economic  
24 development property located on Santa Ana Pueblo land; and

25 (3) "Santa Ana Pueblo land" means all land

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1 located within the exterior boundaries of the Santa Ana  
2 reservation or pueblo grant and all land held by the United  
3 States in trust for Santa Ana Pueblo. "

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