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SENATE BILL 1211

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOHN PINTO

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST CORPORATE
INCOME TAX; ENACTING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. INTERGOVERNMENTAL BUSINESS TAX CREDIT. --

A. With respect to the net income of a taxpayer engaged in the transaction of business occurring after July 1, 1997 from a new business on tribal land, the person who is liable for the payment of the corporate income tax may claim a credit against the corporate income tax if a tax or taxes are imposed by an Indian nation, tribe or pueblo.

B. The credit provided by this section may be referred to as the "intergovernmental business tax credit".

C. As used in this section:

(1) "new business" means a business that

Underscored material = new
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1 commences operation on or after July 1, 1997;

2 (2) "person" means an individual, estate,
3 trust, receiver, business trust, corporation, cooperative, joint
4 venture, association, limited liability company or other group
5 or combination acting as a unit; and

6 (3) "tribal land" means all land that on March
7 1, 1997 was:

8 (a) within the exterior boundaries of an
9 Indian reservation or pueblo grant; or

10 (b) lands held in trust by the United
11 States for an Indian nation, tribe or pueblo.

12 D. The intergovernmental business tax credit shall
13 be determined separately for each reporting period and shall be
14 equal to fifty percent of the lesser of:

15 (1) the aggregate amount of tax imposed by an
16 Indian nation, tribe or pueblo in effect on March 1, 1997; or

17 (2) the amount of corporate income tax due for
18 the reporting period.

19 E. The taxation and revenue department shall
20 administer and interpret the provisions of this section in
21 accordance with the provisions of the Tax Administration Act.

22 F. The burden of showing entitlement to a credit
23 authorized by this section is on the taxpayer claiming it, and
24 the taxpayer shall furnish to the appropriate tax collecting
25 agency, in the manner determined by the taxation and revenue

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1 department, proof of payment of tax on which the credit is based
2 to an Indian nation, tribe or pueblo.

3 Section 2. EFFECTIVE DATE. -- The effective date of the
4 provisions of this act is July 1, 1997.

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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5 February 26, 1997
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7 Mr. President:
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9 Your WAYS AND MEANS COMMITTEE, to whom has been
10 referred
11

12 SENATE BILL 1211
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14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that
16

17 SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
18 SENATE BILL 1211
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20 DO PASS, and thence referred to the FINANCE COMMITTEE.
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22 Respectfully submitted,
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Carlos R. Cisneros, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Duran, Kidd, Leavell, Wilson

Absent: None

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SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE BILL 1211

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST CORPORATE
INCOME TAX; ENACTING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Corporate Income and
Franchise Tax Act is enacted to read:

"[NEW MATERIAL] INTERGOVERNMENTAL BUSINESS TAX CREDIT.--

A. With respect to the net income of a taxpayer
engaged in the transaction of business occurring after July 1,
1997 from a new business on tribal land, the person who is
liable for the payment of the corporate income tax may claim a
credit against the corporate income tax for the aggregate amount
of tax paid to an Indian nation, tribe or pueblo located in
whole or in part within New Mexico.

B. The credit provided by this section may be referred

to as the "intergovernmental business tax credit".

C. As used in this section:

(1) "aggregate amount of tax" means the total of all taxes imposed by an Indian nation, tribe or pueblo located in whole or in part in New Mexico on income derived from business activity on Indian land, except a tax shall not be included in that total if the tax is eligible for a credit pursuant to the provisions of Section 7-29C-1 NMSA 1978 or any other intergovernmental tax credit that provides a similar tax credit;

(2) "Indian land" means all land that on March 1, 1997 was:

(a) within the exterior boundaries of an Indian reservation or pueblo grant; or

(b) lands held in trust by the United States for an Indian nation, tribe or pueblo; and

(3) "new business" means a business that commences operation on or after July 1, 1997.

D. The intergovernmental business tax credit shall be determined separately for each reporting period and shall be equal to fifty percent of the lesser of:

(1) the aggregate amount of tax paid by a taxpayer; or

(2) the amount of the taxpayer's corporate income tax due for the reporting period.

E. The department shall administer and interpret the provisions of this section in accordance with the provisions of the Tax Administration Act.

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1 F. The burden of showing entitlement to a credit
2 authorized by this section is on the taxpayer claiming it, and the
3 taxpayer shall furnish to the appropriate tax collecting agency, in
4 the manner determined by the department, proof of payment of the
5 aggregate amount of tax on which the credit is based.

6 G. A taxpayer that conducts business both on and off
7 Indian land in New Mexico shall have a corporate income tax
8 liability from his income on Indian land equal to the sum of the
9 products of one-half of the taxpayer's New Mexico income multiplied
10 by the payroll factor and one-half of the taxpayer's New Mexico
11 income multiplied by the property factor. The factors shall be
12 determined as follows:

13 (1) the payroll factor is a fraction, the numerator
14 of which is the amount of compensation paid to employees employed
15 during the tax period by the taxpayer in his business on Indian
16 land, and the denominator of which is the total amount of
17 compensation paid to employees employed during the tax period by
18 the taxpayer in all of New Mexico, including Indian land; and

19 (2) the property factor is a fraction, the numerator
20 of which is the average value of the taxpayer's real and tangible
21 personal property owned or rented and used on Indian land in New
22 Mexico during the tax period and the denominator of which is the
23 average value of all the taxpayer's real and tangible property
24 owned or rented and used in New Mexico, including on Indian land,
25 during the tax period. "

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FORTY-THIRD LEGISLATURE SB 1211/a
FIRST SESSION, 1997

February 28, 1997

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE BILL 1211

has had it under consideration and reports same with recommendation
that it DO PASS, amended as follows:

1. On page 1, line 22, after "tax" strike the remainder of the
line and on line 23, strike "imposed for similar purposes by" and
insert in lieu thereof "for the aggregate amount of tax paid to".

2. On page 1, line 24, after "pueblo" insert "located in whole
or in part within New Mexico".

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 1211

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3. On page 2, line 25, after "period" insert "from business conducted on Indian land".

4. On page 3, line 16, strike "personnel" and insert in lieu thereof "payroll".

5. On page 3, line 17, after the first occurrence of "the" strike "number of" and insert in lieu thereof "amount of compensation paid to".

Respectfully submitted,

Ben D. Altamirano, Chairman

SWMC/SB 1211

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 1211

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Carraro, Eisenstadt, McKibben, Smith

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 1, 1997

SENATE FLOOR AMENDMENT number _____ to SENATE WAYS AND MEANS
SUBSTITUTE FOR SENATE BILL 1211

Amendment sponsored by Senator John Pinto

1. On page 1, line 20, strike "tribal" and insert "Indian".
 2. On page 3, line 13, strike "personnel" and insert "payroll".
 3. On page 3, line 19, after "total" strike "number of" and
insert "amount of compensation paid to".
-

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FORTY-THIRD LEGISLATURE
FIRST SESSION

1 SWMC/SB 1211

2 SFI/SB 1211

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4 John Pinto

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7 Adopted _____ Not Adopted _____
8 (Chief Clerk) (Chief Clerk)

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11 Date _____
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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 14, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has been referred

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE
FOR SENATE BILL 1211, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike Senate Finance Committee Amendment 3.
2. Strike Item 2 of Senate Floor Amendment 1.
3. On page 1, line 22, after "credit" insert "as provided in Subsection D of this section".
4. On page 2, line 6, strike "business" and insert in lieu thereof "the new business's".
5. On page 2, line 11, before "that" insert "in New Mexico".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SWMC/SB 1211

SWMC/CS/SB 1211

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6. On page 2, line 16, after "an" insert "individual".

7. On page 2, line 16, strike "and".

8. On page 2, strike lines 17 and 18 in their entirety and insert the following:

"(3) "new business" means a manufacturer or processor that occupies a new business facility or a grower that commences operation in New Mexico on or after July 1, 1997; and

(4) "new business facility" means a facility on Indian land that satisfies the following requirements:

(a) the facility is employed by the taxpayer in the operation of a revenue-producing enterprise. The facility shall not be considered a "new business facility" in the hands of the taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person;

(b) the facility is acquired by or leased to the taxpayer on or after January 1, 1997. The facility shall be deemed to have been acquired by or leased to the taxpayer on or after the specified date if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer or the commencement of the term of the lease to the taxpayer occurs on or after that date or if the facility is constructed, erected or installed by or on behalf of the taxpayer, the

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SWC/CS/SB 1211

Page 17

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2 construction, erection or installation is completed on or after that
3 date;

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5 (c) the facility is a newly acquired facility in
6 which the taxpayer is not continuing the operation of the same or a
7 substantially identical revenue-producing enterprise that previously
8 was in operation on the Indian land of the Indian nation, tribe or
9 pueblo where the facility is now located; a facility is a "newly
10 acquired facility" if the facility was acquired or leased by the
11 taxpayer from another person even if the facility was employed in a
12 revenue-producing enterprise on the Indian land of the same Indian
13 nation, tribe or pueblo immediately prior to the transfer of the
14 title to the facility to the taxpayer or immediately prior to the
15 commencement of the term of the lease of the facility to the taxpayer
16 by another person provided that the revenue-producing enterprise of
17 the previous occupant was not the same or substantially identical to
18 the taxpayer's revenue-producing enterprise; and

19 (d) the facility is not a replacement business
20 facility for a business facility that existed on the Indian land of
21 the Indian nation, tribe or pueblo where the business is now
22 located."

23 9. On page 2, line 25, after "period" insert "from the new
24 business's activity conducted on Indian land".

25 10. On page 3, strike lines 9 through 15 in their entirety and

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SWMC/SB 1211

SWMC/CS/SB 1211

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insert in lieu thereof:

"G. For a taxpayer qualifying for the credit provided by this section that conducts business in New Mexico both on and off Indian land, the taxpayer's corporate income tax liability derived from the new business activity conducted on Indian land shall be equal to the sum of the products of one-half of the taxpayer's New Mexico corporate income tax liability before application of the credit provided by this section multiplied by the payroll factor and one-half of the taxpayer's New Mexico corporate income tax liability before application of the credit provided by this section multiplied by the property factor. The factors shall be determined as follows: "

11. On page 3, line 18, after "his" insert "new".

12. On page 3, line 24, after "used" insert "in the new business".

Respectfully submitted,

Jerry W. Sandel, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SWC/CS/SB 1211

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Sandoval, Stell

Absent: None

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