

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 721

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

LEO C. WATCHMAN, JR.

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST THE SEVERANCE
TAX ON COAL AND CERTAIN OTHER TAXES WITH RESPECT TO COAL
PRODUCTION; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] INTERGOVERNMENTAL COAL TAX
CREDIT. --

A. With respect to products severed on or after July
1, 1996 from a new mine on Indian tribal land, the person who is
liable for the payment of the severance tax on coal, the surtax
on coal, the oil and gas conservation tax, the coal resource
excise tax and the gross receipts tax may claim a credit against
the sum of the severance tax on coal, the surtax on coal, the
oil and gas conservation tax, the coal resource excise tax and
the gross receipts tax due for the production month if a

1 severance, ad valorem, possessory interest, excise or similar
2 tax has been imposed on coal by an Indian nation, tribe or
3 pueblo. The credit provided by this subsection may be referred
4 to as the "intergovernmental coal tax credit".

5 B. For the purposes of this section:

6 (1) "Indian tribal land" means land within the
7 exterior boundaries of an Indian reservation or pueblo grant or
8 lands held in trust by the United States for an Indian nation,
9 tribe, pueblo or tribal member or lands held by an Indian
10 nation, tribe, pueblo or tribal member subject to restrictions
11 against alienation imposed by the United States. For purposes
12 of this subsection, "tribal member" means an individual whose
13 name appears on the official roll of an Indian nation, tribe or
14 pueblo;

15 (2) "new mine" means a mining operation that is
16 permitted pursuant to the federal Surface Mining Control and
17 Reclamation Act of 1977 and that commences production on or
18 after July 1, 1996;

19 (3) "person" means any individual, estate,
20 trust, receiver, business trust, corporation, firm,
21 copartnership, cooperative, joint venture, association, limited
22 liability company or other group or combination acting as a
23 unit; and

24 (4) "production month" means the month for which
25 the severance tax on coal, the surtax on coal, the oil and gas

Underscored material = new
[bracketed material] = delete

1 conservation tax, the coal resource excise tax and the gross
2 receipts tax are being reported and paid.

3 C. The intergovernmental coal tax credit shall be
4 determined separately for each new mine and shall be equal to
5 seventy-five percent of the lesser of:

6 (1) the aggregate amount of severance tax on
7 coal, surtax, ad valorem tax, possessory interest tax, excise
8 tax or similar tax imposed by the Indian nation, tribe or pueblo
9 upon the coal severed from a new mine; and

10 (2) the amount of severance tax on coal, the
11 surtax on coal, the oil and gas conservation tax, the coal
12 resource excise tax and the gross receipts tax due for the
13 production month with respect to the coal severed from a new
14 mine.

15 D. If, after March 1, 1996, an Indian nation, tribe
16 or pueblo increases any severance, privilege, ad valorem or
17 similar tax applicable to coal to which the tax credits provided
18 by this section apply, the amount of the intergovernmental coal
19 tax credit to which the increase applies shall be reduced by the
20 difference between the aggregate amount of tax due to the Indian
21 nation, tribe or pueblo and the aggregate amount of tax that
22 would have been imposed by the terms of the tax or taxes in
23 effect on March 1, 1996.

24 E. Notwithstanding any other provision of law to the
25 contrary, the amount of credit taken and allowed shall be

. 110486. 1

Underscored material = new
[bracketed material] = delete

1 applied proportionately against the amount of the severance tax
2 on coal, the surtax on coal, the oil and gas conservation tax,
3 the coal resource excise tax and the gross receipts tax.

4 F. The taxation and revenue department shall
5 administer and interpret the provisions of this section in
6 accordance with the provisions of the Tax Administration Act.

7 G. The burden of showing entitlement to a credit
8 authorized by this section is on the taxpayer claiming it, and
9 the taxpayer shall furnish to the appropriate tax collecting
10 agency, in the manner determined by the taxation and revenue
11 department, proof of payment of any tribal tax on which the
12 credit is based.

13 Section 2. EFFECTIVE DATE. -- The effective date of the
14 provisions of this act is July 1, 1996.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 721

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
1996

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST THE SEVERANCE
TAX ON COAL AND CERTAIN OTHER TAXES WITH RESPECT TO COAL
PRODUCTION; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1. INTERGOVERNMENTAL COAL TAX CREDIT. --

A. With respect to products severed on or after July
1, 1996 from a new mine on Indian tribal land, the person who is
liable for the payment of the severance tax on coal, the surtax
on coal, the oil and gas conservation tax and the coal resource
excise tax may claim a credit against the sum of the severance
tax on coal, the surtax on coal, the oil and gas conservation
tax and the coal resource excise tax for the production month if
a severance, ad valorem, possessory interest or similar tax is

1 imposed on coal by an Indian nation, tribe or pueblo. The
2 credit provided by this subsection may be referred to as the
3 "intergovernmental coal tax credit".

4 B. For the purposes of this section:

5 (1) "Indian tribal land" means all land that on
6 March 1, 1996 was:

7 (a) within the exterior boundaries of an
8 Indian reservation or pueblo grant, except land held in fee by a
9 person who is not a tribal member; or

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

12 (2) "new mine" means a mining operation that
13 receives its initial permit pursuant to the federal Surface
14 Mining Control and Reclamation Act of 1977 on or after July 1,
15 1996 and that commences production on or after July 1, 1996;

16 (3) "person" means any individual, estate,
17 trust, receiver, business trust, corporation, firm,
18 copartnership, cooperative, joint venture, association, limited
19 liability company or other group or combination acting as a
20 unit;

21 (4) "production month" means the month for
22 which the severance tax on coal, the surtax on coal, the oil and
23 gas conservation tax and the coal resource excise tax are being
24 reported and paid; and

25 (5) "tribal member" means an individual whose

1 name properly appears on the official roll of an Indian nation,
2 tribe or pueblo.

3 C. The intergovernmental coal tax credit shall be
4 determined separately for each production month for each new mine
5 and shall be equal to seventy-five percent of the lesser of:

6 (1) the aggregate amount of severance tax on
7 coal, surtax, ad valorem tax, possessory interest tax or similar
8 tax in effect on March 1, 1996 imposed by the Indian nation, tribe
9 or pueblo upon the coal severed from a new mine; or

10 (2) the amount of severance tax on coal, the
11 surtax on coal, the oil and gas conservation tax and the coal
12 resource excise tax due for the production month with respect to
13 the coal severed from a new mine.

14 D. If, after March 1, 1996, an Indian nation, tribe or
15 pueblo increases any severance, privilege, ad valorem or similar
16 tax applicable to coal to which the tax credits provided by this
17 section apply, the amount of the intergovernmental coal tax credit
18 for any production month to which the increase applies shall be
19 reduced by the difference between the aggregate amount of tax due
20 to the Indian nation, tribe or pueblo and the aggregate amount of
21 tax that would have been imposed by the terms of the tax or taxes
22 in effect on March 1, 1996.

23 E. Notwithstanding any other provision of law to the
24 contrary, the amount of credit taken and allowed shall be applied
25 proportionately against the amount of the severance tax on coal,

. 112061. 1

Underscored material = new
[bracketed material] = delete

1 the surtax on coal, the oil and gas conservation tax and the coal
2 resource excise tax due with respect to the coal to which the tax
3 credit applies.

4 F. The taxation and revenue department shall administer
5 and interpret the provisions of this section in accordance with the
6 provisions of the Tax Administration Act.

7 G. The burden of showing entitlement to a credit
8 authorized by this section is on the taxpayer claiming it, and the
9 taxpayer shall furnish to the appropriate tax collecting agency, in
10 the manner determined by the taxation and revenue department, proof
11 of payment of any tribal tax on which the credit is based.

12 Section 2. EFFECTIVE DATE. -- The effective date of the
13 provisions of this act is July 1, 1996.

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

February 14, 1996

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred

HOUSE BILL 721

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 721

DO PASS, and thence referred to the APPROPRIATIONS AND
FINANCE COMMITTEE.

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 721

HTRC/HB 721

Page 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Respectfully submitted,

Jerry W. Sandel, Chairman

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

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: None

Absent: Crook, Gonzales, Parsons, Ryan, Stell

H0721TR1