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HOUSE BILL 605

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

INTRODUCED BY

James Roger Madalena

AN ACT

**RELATING TO TAXATION; PROVIDING AN INTERGOVERNMENTAL CREDIT
FOR CERTAIN TAXES; ENACTING A SECTION OF THE NMSA 1978.**

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

Section 1. A new Section 7-29C-2 NMSA 1978 is enacted to read:

"7-29C-2. [NEW MATERIAL] TRIBAL CAPITAL IMPROVEMENT TAX CREDITS. --

A. A person who is liable for the payment of the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax or the oil and gas ad valorem production tax imposed on products severed from Indian tribal land or imposed on the privilege of severing products from Indian tribal land shall be entitled to a credit to be computed pursuant to this section and deducted from the

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1 payment of those taxes on products from qualifying wells. The
2 credit provided by this subsection may be referred to as the
3 "tribal capital improvements production tax credit".

4 B. As used in this section:

5 (1) "Indian tribal land" means all land that
6 on March 1, 2001 was within the exterior boundaries of an
7 Indian reservation or pueblo grant or was held in trust by the
8 United States for an Indian person, nation, tribe or pueblo;

9 (2) "product" means oil, natural gas or
10 liquid hydrocarbon, individually or in combination, or carbon
11 dioxide;

12 (3) "qualifying well" means a well on Indian
13 tribal land; and

14 (4) "tribal capital improvements tax" means a
15 tax imposed after the effective date of this section by the
16 Indian nation, tribe or pueblo having jurisdiction over the
17 Indian tribal land on which a qualifying well is located, that
18 is exclusively dedicated to fund capital improvement projects
19 on the tribe's Indian tribal land.

20 C. The tribal capital improvements production tax
21 credit shall be determined separately for each calendar month
22 and shall be equal to the lesser of:

23 (1) the amount of the tribal capital
24 improvements tax imposed by the Indian nation, tribe or pueblo
25 upon the products severed from qualifying wells or upon the

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1 privilege of severing products from qualifying wells; or

2 (2) two percent of the taxable value of the
3 products severed from qualifying wells as determined by
4 applicable state law.

5 D. Notwithstanding any other provision of law to
6 the contrary, the amount of credit taken and allowed shall be
7 applied proportionately against the amount of the oil and gas
8 severance tax, the oil and gas conservation tax, the oil and
9 gas emergency school tax and the oil and gas ad valorem
10 production tax due with respect to the products or severance
11 of products taxed.

12 E. The taxation and revenue department shall
13 administer and interpret the provisions of this section in
14 accordance with the provisions of the Tax Administration Act.

15 F. The burden of showing entitlement to a credit
16 authorized by this section is on the taxpayer claiming it, and
17 he shall furnish to the taxation and revenue department, in a
18 manner determined by the department, proof of payment of
19 tribal tax on which the credit is based.

20 G. The credit provided by this section shall be in
21 addition to any credit claimed by the taxpayer or allowed by
22 the taxation and revenue department pursuant to Section
23 7-29C-1 NMSA 1978 on the same products or on the severance of
24 the same products. A tribal infrastructure tax that qualifies
25 for the credit provided by this section shall constitute an

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1 increase in tribal taxes for purposes of Subsection F of
2 Section 7-29C-1 NMSA 1978, but only to the extent that it
3 exceeds the amount identified in Paragraph (2) of Subsection C
4 of this section. "

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