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HOUSE BILL 165

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE AND
THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING AN INTERGOVERNMENTAL TAX
CREDIT WITH RESPECT TO OIL AND GAS PRODUCTION; CREATING THE
TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT.

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

Section 1. TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT. --

A. A person who is liable for the payment of the
oil and gas severance tax, the oil and gas conservation tax or
the oil and gas emergency school 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 to be
deducted from the payment of those taxes with respect to
products from qualifying wells. The credit provided by this
section may be referred to as the "tribal capital improvements

underscored material = new
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1 tax credit".

2 B. As used in this section:

3 (1) "Indian tribal land" means land within
4 the state of New Mexico that on March 1, 2002 was within the
5 exterior boundaries of an Indian reservation or pueblo grant
6 or was held in trust by the United States for an Indian
7 nation, tribe or pueblo;

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

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

13 (4) "tribal capital improvements tax" means a
14 tax imposed after the effective date of this section by the
15 Indian nation, tribe or pueblo having jurisdiction over the
16 Indian tribal land on which a qualifying well is located, that
17 is exclusively dedicated to fund capital improvement projects
18 on the tribe's Indian tribal land and that is not available to
19 finance the construction of buildings used for commercial
20 activity.

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

24 (1) the amount of the tribal capital
25 improvements tax imposed by the Indian nation, tribe or pueblo

underscoring material = new
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1 upon the products severed from qualifying wells or upon the
2 privilege of severing products from qualifying wells; or

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

6 D. A credit pursuant to this section shall be
7 allowed by the taxation and revenue department only if the
8 Indian nation, tribe or pueblo having jurisdiction over the
9 Indian tribal land on which the qualifying well is located has
10 entered into a cooperative agreement with the secretary of
11 taxation and revenue for the exchange of information necessary
12 for the administration of the tribal capital improvements tax
13 credit.

14 E. Notwithstanding any other provision of law to
15 the contrary, the amount of credit taken and allowed shall be
16 applied proportionately against the amount of the oil and gas
17 severance tax, the oil and gas conservation tax and the oil
18 and gas emergency school tax due with respect to the products
19 or severance of products taxed.

20 F. 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 with respect to the same products or the
24 severance of the same products. A tribal capital improvements
25 tax that qualifies for the credit provided by this section

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

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

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

14 Section 2. EFFECTIVE DATE. --The effective date of the
15 provisions of this act is July 1, 2002.