

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

**SENATE BILL 283**

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

**INTRODUCED BY**

**Leonard Tsosie**

**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  
[bracketed material] = delete

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

. 140490. 1

underscored material = new  
[bracketed material] = delete

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

. 140490. 1

underscored material = new  
[bracketed material] = delete

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.