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HOUSE BILL 82

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Thomas C. Taylor

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST COMPENSATING
TAX FOR PAYMENTS TO THE NAVAJO NATION WITH RESPECT TO ELECTRIC
GENERATING FACILITIES.

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

Section 1. A new Section 7-29C-3 NMSA 1978 is enacted to
read:

"7-29C-3. [NEW MATERIAL] INTERGOVERNMENTAL TAX CREDIT--
COMPENSATING TAX.--

A. A taxpayer who is liable for the payment of the
compensating tax with respect to the construction or operation
of a qualified generating facility located on Navajo Nation
land is entitled to a credit to be computed under this section
and to be deducted from the payment of the tax. The credit
provided by this section may be referred to as the

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underscored material = new
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1 "intergovernmental compensating tax credit".

2 B. For the purposes of this section:

3 (1) "Navajo Nation land" means land in New
4 Mexico that on July 1, 2006 was located within the exterior
5 boundaries of the Navajo Nation reservation or within a
6 dependent community of the Navajo Nation; and

7 (2) "qualified generating facility" means a
8 coal-fired electric generating facility, the construction of
9 which commenced no later than December 31, 2007.

10 C. Subject to the limit imposed in Subsection D of
11 this section, the intergovernmental compensating tax credit
12 shall be determined annually and shall be equal to the lesser
13 of:

14 (1) the aggregate amount of possessory
15 interest tax, business activity tax and ad valorem tax imposed
16 by the Navajo Nation with respect to the qualified generating
17 facility and paid by the taxpayer; or alternatively, the amount
18 paid by the taxpayer pursuant to an agreement under which the
19 Navajo Nation grants the taxpayer an exemption from taxation
20 with respect to the qualified generating facility in exchange
21 for payment of a fixed annual amount; or

22 (2) eighty-five percent of the compensating
23 tax due this state by the taxpayer with respect to the
24 construction or operation of the qualified generating facility.

25 D. The aggregate amount of intergovernmental

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1 compensating tax credit that may be claimed with respect to
2 each qualified generating facility shall not exceed sixty
3 million dollars (\$60,000,000).

4 E. The burden of showing entitlement to the
5 intergovernmental compensating tax credit is on the taxpayer
6 claiming it. The taxpayer shall furnish, in the manner
7 determined by the taxation and revenue department, proof of
8 payment of any tribal tax or fixed annual amount on which the
9 credit is based and any other information the department deems
10 necessary to administer the credit."

11 Section 2. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2006.

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