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SENATE BILL 867

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John Pinto

AN ACT

RELATING TO TAXATION; PROVIDING FOR COOPERATIVE AGREEMENTS WITH
THE NAVAJO NATION REGARDING SPECIAL FUELS; PERMITTING TAX
CREDITS.

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

Section 1. A new section of the Special Fuels Supplier
Tax Act is enacted to read:

" NEW MATERIAL CREDIT--SPECIAL FUEL EXCISE TAX--TAX PAID
TO NAVAJO NATION. --

A. If, on a transaction taking place on land owned
by or for the benefit of the Navajo Nation and located within
the exterior boundaries of the Navajo Nation, a Navajo Nation
tax has been imposed, the amount of the Navajo Nation tax may
be credited against tax due to the state or its political
subdivisions under the Special Fuels Supplier Tax Act. The

underscored material = new
[bracketed material] = delete

1 amount of the credit shall be equal to the qualifying Navajo
2 Nation tax imposed on the same transaction.

3 B. A Navajo Nation tax shall:

4 (1) not unlawfully discriminate among persons
5 or transactions based on membership within the Navajo Nation;

6 (2) be substantially similar to the tax
7 imposed by Section 7-16A-3 NMSA 1978; and

8 (3) be subject to a cooperative agreement that
9 has been entered into between the Navajo Nation and the
10 department pursuant to the provisions of the Taxation and
11 Revenue Department Act and that is in effect at the time of the
12 taxable transaction.

13 C. As used in this section, "Navajo Nation tax"
14 means an excise, privilege or similar tax imposed by the Navajo
15 Nation on special fuels."

16 Section 2. A new section of the Taxation and Revenue
17 Department Act is enacted to read:

18 "[NEW MATERIAL] COOPERATIVE AGREEMENTS WITH THE NAVAJO
19 NATION. --

20 A. The secretary may enter into cooperative
21 agreements with the Navajo Nation for the exchange of
22 information and the reciprocal, joint or common enforcement,
23 administration, collection, remittance and audit of revenues
24 associated with the special fuel excise tax imposed by Section
25 7-16A-3 NMSA 1978 and a qualifying excise, privilege or similar

. 145749. 1

underscored material = new
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1 tax on special fuel imposed by the Navajo Nation.

2 B. Money collected by the department on behalf of
3 the Navajo Nation in accordance with a cooperative agreement
4 entered into pursuant to this section is not money of the state
5 and shall be collected and disbursed in accordance with the
6 terms of the cooperative agreement, notwithstanding any other
7 provision of law.

8 C. The secretary is empowered to adopt rules and
9 establish procedures deemed appropriate by the secretary for
10 the collection and disbursement of excise, privilege or similar
11 tax revenue due to the Navajo Nation and for the transfer of
12 special fuel excise taxes collected by the Navajo Nation for
13 the state under the terms of a cooperative agreement entered
14 into pursuant to this section, including procedures for
15 identification of taxpayers or transactions that are subject
16 only to the taxing authority of the Navajo Nation, taxpayers or
17 transactions that are subject only to the taxing authority of
18 the state and taxpayers or transactions that are subject to the
19 taxing authority of both parties' jurisdictions.

20 D. Nothing in a cooperative agreement entered into
21 pursuant to this section shall be construed:

22 (1) to authorize the state or the Navajo
23 Nation to tax persons or transactions that federal law
24 prohibits;

25 (2) to authorize the state courts or the

underscored material = new
[bracketed material] = delete

1 Navajo Nation courts to assert jurisdiction over persons who
2 are not otherwise subject to those courts' jurisdictions;

3 (3) as affecting any issue of the respective
4 civil or criminal jurisdictions of the state or the Navajo
5 Nation; or

6 (4) as an assertion or an admission by either
7 the state or the Navajo Nation that the taxes of one have
8 precedence over the taxes of the other when the person or
9 transaction is subject to the taxing authority of both
10 governments.

11 E. A cooperative agreement entered into pursuant to
12 this section shall be construed solely as an agreement between
13 the two party governments and shall not alter or affect the
14 government-to-government relations between the state and any
15 other Indian nation, tribe or pueblo. "

16 Section 3. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 2003.