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HOUSE BILL 244

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LYNDA M LOVEJOY

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A CREDIT AGAINST THE SEVERANCE
TAX ON COAL AND CERTAIN OTHER TAXES WITH RESPECT TO COAL
PRODUCTION; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1. INTERGOVERNMENTAL COAL TAX CREDIT. --

A. With respect to products severed on or after July
1, 1997 from a new mine on Indian tribal land, the person who is
liable for the payment of the severance tax on coal, the surtax
on coal, the oil and gas conservation tax and the coal resource
excise tax may claim a credit against the sum of the severance
tax on coal, the surtax on coal, the oil and gas conservation
tax and the coal resource excise tax for the production month if
a severance, ad valorem, possessory interest or similar tax is
imposed on coal by an Indian nation, tribe or pueblo. The

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1 credit provided by this subsection may be referred to as the
2 "intergovernmental coal tax credit".

3 B. For the purposes of this section:

4 (1) "Indian tribal land" means all land that on
5 March 1, 1997 was:

6 (a) within the exterior boundaries of an
7 Indian reservation or pueblo grant, except land held in fee by a
8 person who is not a tribal member; or

9 (b) lands held in trust by the United
10 States for an Indian nation, tribe or pueblo;

11 (2) "new mine" means a mining operation that
12 receives its initial permit pursuant to the federal Surface
13 Mining Control and Reclamation Act of 1977 on or after July 1,
14 1997 and that commences production on or after July 1, 1997;

15 (3) "person" means any individual, estate,
16 trust, receiver, business trust, corporation, firm,
17 copartnership, cooperative, joint venture, association, limited
18 liability company or other group or combination acting as a
19 unit;

20 (4) "production month" means the month for
21 which the severance tax on coal, the surtax on coal, the oil and
22 gas conservation tax and the coal resource excise tax are being
23 reported and paid; and

24 (5) "tribal member" means an individual whose
25 name properly appears on the official roll of an Indian nation,

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1 tribe or pueblo.

2 C. The intergovernmental coal tax credit shall be
3 determined separately for each production month for each new
4 mine and shall be equal to seventy-five percent of the lesser
5 of:

6 (1) the aggregate amount of severance tax on
7 coal, surtax, ad valorem tax, possessory interest tax or similar
8 tax in effect on March 1, 1997 imposed by the Indian nation,
9 tribe or pueblo upon the coal severed from a new mine; or

10 (2) the amount of severance tax on coal, the
11 surtax on coal, the oil and gas conservation tax and the coal
12 resource excise tax due for the production month with respect to
13 the coal severed from a new mine.

14 D. If, after March 1, 1997, an Indian nation, tribe
15 or pueblo increases any severance, privilege, ad valorem or
16 similar tax applicable to coal to which the tax credits provided
17 by this section apply, the amount of the intergovernmental coal
18 tax credit for any production month to which the increase
19 applies shall be reduced by the difference between the aggregate
20 amount of tax due to the Indian nation, tribe or pueblo and the
21 aggregate amount of tax that would have been imposed by the
22 terms of the tax or taxes in effect on March 1, 1997.

23 E. Notwithstanding any other provision of law to the
24 contrary, the amount of credit taken and allowed shall be
25 applied proportionately against the amount of the severance tax

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1 on coal, the surtax on coal, the oil and gas conservation tax
2 and the coal resource excise tax due with respect to the coal to
3 which the tax credit applies.

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

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

13 Section 2. EFFECTIVE DATE. -- The effective date of the
14 provisions of this act is July 1, 1997.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

March 3, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred

HOUSE BILL 244

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, line 24, after "interest" insert ",
privilege".
2. On page 3, line 7, before "or" insert ", privilege tax".
3. On page 3, line 15, after "valorem" insert ", possessory
interest".
4. On page 4, between lines 12 and 13, insert the following
new subsection:

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FIRST SESSION, 1997

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"H. As used in this section, "coal resource excise tax" means any tax imposed on coal pursuant to the Resources Excise Tax Act. ". ,
and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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The roll call vote was 11 For 0 Against

Yes: 11

Excused: Gonzales, Lujan

Absent: None

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 5, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred

HOUSE BILL 244, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Max Coll, Chairman

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FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Bird, Marquardt, Picraux, Salazar, Watchman

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 10, 1997

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

HOUSE BILL 244, as amended

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Carlos R. Cisneros, Chairman

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Duran

Absent: None

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