

107TH CONGRESS  
1ST SESSION

# H. R. 177

To amend the Internal Revenue Code of 1986 to provide tax credits for  
Indian investment and employment, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. SHADEGG introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
tax credits for Indian investment and employment, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Indian Reservation  
5       Jobs and Investment Act of 2001”.

6       **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7       The Constitutional authority upon which this Act  
8       rests is the power of Congress to lay and collect taxes and  
9       to regulate commerce with foreign nations and among the

1 several States and with the Indian tribes, as set forth in  
 2 section 8 of Article I of the United States Constitution.

3 **SEC. 3. INVESTMENT TAX CREDIT FOR PROPERTY ON IN-**  
 4 **DIAN RESERVATIONS.**

5 (a) ALLOWANCE OF INDIAN RESERVATION CRED-  
 6 IT.—Section 46 of the Internal Revenue Code of 1986 (re-  
 7 lating to investment credits) is amended by striking “and”  
 8 at the end of paragraph (2), by striking the period at the  
 9 end of paragraph (3) and inserting “, and”, and by adding  
 10 after paragraph (3) the following new paragraph:

11 “(4) the Indian reservation credit.”.

12 (b) AMOUNT OF INDIAN RESERVATION CREDIT.—

13 (1) IN GENERAL.—Section 48 of such Code (re-  
 14 lating to the energy credit and the reforestation  
 15 credit) is amended by adding after subsection (b)  
 16 the following new subsection:

17 “(c) INDIAN RESERVATION CREDIT.—

18 “(1) IN GENERAL.—For purposes of section 46,  
 19 the Indian reservation credit for any taxable year is  
 20 the Indian reservation percentage of the qualified in-  
 21 vestment in qualified Indian reservation property  
 22 placed in service during such taxable year, deter-  
 23 mined in accordance with the following table:

**“In the case of qualified Indian reservation property which is—      The Indian reservation percentage is—**

Reservation personal property .....	10
New reservation construction property .....	15
Reservation infrastructure investment .....	15

1                   “(2) QUALIFIED INVESTMENT IN QUALIFIED  
2           INDIAN RESERVATION PROPERTY DEFINED.—For  
3           purposes of this subpart—

4                   “(A) IN GENERAL.—The term ‘qualified  
5           Indian reservation property’ means property—

6                   “(i) which is—

7                               “(I) reservation personal prop-  
8                               erty;

9                               “(II) new reservation construc-  
10                              tion property; or

11                             “(III) reservation infrastructure  
12                             investment; and

13                            “(ii) not acquired (directly or indi-  
14                            rectly) by the taxpayer from a person who  
15                            is related to the taxpayer (within the  
16                            meaning of section 465(b)(3)(C)).

17           The term ‘qualified Indian reservation property’  
18           does not include any property (or any portion  
19           thereof) placed in service for purposes of con-  
20           ducting or housing class I, II, or III gaming (as  
21           defined in section 4 of the Indian Gaming Reg-  
22           ulatory Act (25 U.S.C. 2703)).

1           “(B) QUALIFIED INVESTMENT.—The term  
2           ‘qualified investment’ means—

3                   “(i) in the case of reservation infra-  
4                   structure investment, the amount expended  
5                   by the taxpayer for the acquisition or con-  
6                   struction of the reservation infrastructure  
7                   investment; and

8                   “(ii) in the case of all other qualified  
9                   Indian reservation property, the taxpayer’s  
10                  basis for such property.

11           “(C) RESERVATION PERSONAL PROP-  
12           PERTY.—The term ‘reservation personal prop-  
13           erty’ means qualified personal property which is  
14           used by the taxpayer predominantly in the ac-  
15           tive conduct of a trade or business within an  
16           Indian reservation. Property shall not be treat-  
17           ed as ‘reservation personal property’ if it is  
18           used or located outside the Indian reservation  
19           on a regular basis.

20           “(D) QUALIFIED PERSONAL PROPERTY.—  
21           The term ‘qualified personal property’ means  
22           property—

23                   “(i) for which depreciation is allow-  
24                   able under section 168;

25                   “(ii) which is not—

1 “(I) nonresidential real property;

2 “(II) residential rental property;

3 or

4 “(III) real property which is not  
5 described in subclause (I) or (II) and  
6 which has a class life of more than  
7 12.5 years.

8 For purposes of this subparagraph, the  
9 terms ‘nonresidential real property’, ‘resi-  
10 dential rental property’, and ‘class life’  
11 have the respective meanings given such  
12 terms by section 168.

13 “(E) NEW RESERVATION CONSTRUCTION  
14 PROPERTY.—The term ‘new reservation con-  
15 struction property’ means qualified real  
16 property—

17 “(i) which is located in an Indian res-  
18 ervation;

19 “(ii) which is used by the taxpayer  
20 predominantly in the active conduct of a  
21 trade or business within an Indian reserva-  
22 tion; and

23 “(iii) which is originally placed in  
24 service by the taxpayer.

“(F) QUALIFIED REAL PROPERTY.—The term ‘qualified real property’ means property for which depreciation is allowable under section 168 and which is described in subclause (I), (II), or (III) of subparagraph (D)(ii).

“(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

“(i) IN GENERAL.—The term ‘reservation infrastructure investment’ means qualified personal property or qualified real property which—

“(I) benefits the tribal infrastructure;

“(II) is available to the general public; and

“(III) is placed in service in connection with the taxpayer’s active conduct of a trade or business within an Indian reservation.

“(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect

1 to existing tribal infrastructure in the res-  
2 ervation, and shall include, but not be lim-  
3 ited to, roads, power lines, water systems,  
4 railroad spurs, and communications facili-  
5 ties.

6 “(H) COORDINATION WITH OTHER CRED-  
7 ITS.—The term ‘qualified Indian reservation  
8 property’ shall not include any property with re-  
9 spect to which the energy credit or the rehabili-  
10 tation credit is allowed.

11 “(3) REAL ESTATE RENTALS.—For purposes of  
12 this section, the rental to others of real property lo-  
13 cated within an Indian reservation shall be treated  
14 as the active conduct of a trade or business in an  
15 Indian reservation.

16 “(4) INDIAN RESERVATION DEFINED.—For  
17 purposes of this subpart, the term ‘Indian reserva-  
18 tion’ means a reservation, as defined in—

19 “(A) section 3(d) of the Indian Financing  
20 Act of 1974 (25 U.S.C. 1452(d)); or

21 “(B) section 4(10) of the Indian Child  
22 Welfare Act of 1978 (25 U.S.C. 1903(10)).

23 “(5) LIMITATION BASED ON UNEMPLOY-  
24 MENT.—

“(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

“(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit;

“(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit; and

“(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

“(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than \$1,000,000, subparagraph (A) shall be applied by substituting ‘during the earlier of the calendar year in which the taxpayer

1 enters into a binding agreement to make a  
2 qualified investment or the first calendar year  
3 in which the taxpayer has expended at least 10  
4 percent of the taxpayer's qualified investment,  
5 or the preceding calendar year' for 'during the  
6 calendar year in which the property is placed in  
7 service or during the immediately preceding 2  
8 calendar years'.

9 “(C) DETERMINATION OF INDIAN UNEM-  
10 PLOYMENT.—For purposes of this paragraph,  
11 with respect to any Indian reservation, the In-  
12 dian unemployment rate shall be based upon  
13 Indians unemployed and able to work, and shall  
14 be certified by the Secretary of the Interior.

15 “(6) COORDINATION WITH NONREVENUE  
16 LAWS.—Any reference in this subsection to a provi-  
17 sion not contained in this title shall be treated for  
18 purposes of this subsection as a reference to such  
19 provision as in effect on the date of the enactment  
20 of this paragraph.”.

21 (2) LODGING TO QUALIFY.—Paragraph (2) of  
22 section 50(b) of such Code (relating to property used  
23 for lodging) is amended—

24 (A) by striking “and” at the end of sub-  
25 paragraph (C);

1 (B) by striking the period at the end of  
 2 subparagraph (D) and inserting “; and” and

3 (C) by adding at the end the following sub-  
 4 paragraph:

5 “(E) new reservation construction prop-  
 6 erty.”.

7 (c) RECAPTURE.—Subsection (a) of section 50 of  
 8 such Code (relating to recapture in case of dispositions,  
 9 etc.), is amended by adding at the end the following new  
 10 paragraph:

11 “(6) SPECIAL RULES FOR INDIAN RESERVATION  
 12 PROPERTY.—

13 “(A) IN GENERAL.—If, during any taxable  
 14 year, property with respect to which the tax-  
 15 payer claimed an Indian reservation credit—

16 “(i) is disposed of; or

17 “(ii) in the case of reservation per-  
 18 sonal property—

19 “(I) otherwise ceases to be in-  
 20 vestment credit property with respect  
 21 to the taxpayer; or

22 “(II) is removed from the Indian  
 23 reservation, converted, or otherwise  
 24 ceases to be Indian reservation prop-  
 25 erty,

1 the tax under this chapter for such taxable year  
2 shall be increased by the amount described in  
3 subparagraph (B).

4 “(B) AMOUNT OF INCREASE.—The in-  
5 crease in tax under subparagraph (A) shall  
6 equal the aggregate decrease in the credits al-  
7 lowed under section 38 by reason of section  
8 48(c) for all prior taxable years which would  
9 have resulted had the qualified investment  
10 taken into account with respect to the property  
11 been limited to an amount which bears the  
12 same ratio to the qualified investment with re-  
13 spect to such property as the period such prop-  
14 erty was held by the taxpayer bears to the ap-  
15 plicable recovery period under section 168(g).

16 “(C) COORDINATION WITH OTHER RECAP-  
17 TURE PROVISIONS.—In the case of property to  
18 which this paragraph applies, paragraph (1)  
19 shall not apply and the rules of paragraphs (3),  
20 (4), and (5) shall apply.”.

21 (d) BASIS ADJUSTMENT TO REFLECT INVESTMENT  
22 CREDIT.—Paragraph (3) of section 50(c) of such Code  
23 (relating to basis adjustment to investment credit prop-  
24 erty) is amended by striking “energy credit or reforest-  
25 ation credit” and inserting “energy credit, reforestation

1 credit, or Indian reservation credit other than with respect  
2 to any expenditure for new reservation construction prop-  
3 erty”.

4 (e) CERTAIN GOVERNMENTAL USE PROPERTY TO  
5 QUALIFY.—Paragraph (4) of section 50(b) of such Code  
6 (relating to property used by governmental units or for-  
7 eign persons or entities) is amended by redesignating sub-  
8 paragraphs (D) and (E) as subparagraphs (E) and (F),  
9 respectively, and by inserting after subparagraph (C) the  
10 following new subparagraph:

11 “(D) EXCEPTION FOR RESERVATION IN-  
12 FRASTRUCTURE INVESTMENT.—This paragraph  
13 shall not apply for purposes of determining the  
14 Indian reservation credit with respect to res-  
15 ervation infrastructure investment.”.

16 (f) APPLICATION OF AT-RISK RULES.—Subpara-  
17 graph (C) of section 49(a)(1) of such Code is amended  
18 by striking “and” at the end of clause (ii), by striking  
19 the period at the end of clause (iii) and inserting “, and”,  
20 and by adding at the end the following new clause:

21 “(iv) the qualified investment in quali-  
22 fied Indian reservation property.”.

23 (g) CLERICAL AMENDMENTS.—

24 (1) Section 48 of such Code is amended by  
25 striking the heading and inserting the following:

1 **“SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; IN-**  
2 **DIAN RESERVATION CREDIT.”.**

3 (2) The table of sections for subpart E of part  
4 IV of subchapter A of chapter 1 is amended by  
5 striking the item relating to section 48 and inserting  
6 the following:

“Sec. 48. Energy credit; reforestation credit; Indian reservation  
credit.”.

7 (h) **EFFECTIVE DATE.**—The amendments made by  
8 this section shall apply to property placed in service after  
9 December 31, 2001.

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