

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

HOUSE BILL 144

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

INTRODUCED BY

George J. Hanosh

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR INCOME TAX AND CORPORATE
INCOME TAX CREDITS FOR DELIVERING WATER PRODUCED FROM OIL AND
GAS DRILLING AND PRODUCTION.

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

Section 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] CREDIT FOR PRODUCED WATER.--

A. An operator who files an individual New Mexico
income tax return who is not a dependent of another taxpayer
may take a tax credit in an amount equal to one thousand
dollars (\$1,000) per acre-foot of produced water not to exceed
four hundred thousand dollars (\$400,000) per year if the
following conditions are met:

- (1) the operator delivers the water to the

1 interstate stream commission at the Pecos river in compliance
2 with the applicable requirements of New Mexico's Water Quality
3 Act, New Mexico's water quality control commission regulations
4 and federal clean water acts;

5 (2) the operator delivers the water solely in
6 a manner approved by the interstate stream commission to
7 contribute to delivery obligations pursuant to the Pecos River
8 Compact; and

9 (3) upon delivery to the interstate stream
10 commission at the Pecos river, title is transferred to the
11 interstate stream commission, which shall indemnify the
12 operator from future liability.

13 B. A husband and wife who file separate returns for
14 a taxable year in which they could have filed a joint return
15 may each claim only one-half of the credit that would have been
16 allowed on a joint return.

17 C. The tax credit provided in this section may only
18 be deducted from the operator's personal income tax liability.
19 Any portion of the tax credit provided in this section that
20 remains unused at the end of the operator's taxable year may be
21 carried forward for three consecutive taxable years.

22 D. As used in this section:

23 (1) "operator" means a person who operates an
24 oil or gas well; and

25 (2) "produced water" means water produced from

underscored material = new
[bracketed material] = delete

1 oil or gas drilling and production from a depth of two thousand
2 five hundred feet or more below the surface.

3 E. The interstate stream commission shall provide
4 legal confirmation of receipt of the water from the operator,
5 and the operator shall provide documentation to the department
6 to prove eligibility for the tax credit provided in this
7 section."

8 Section 2. A new section of the Corporate Income and
9 Franchise Tax Act is enacted to read:

10 "[NEW MATERIAL] CREDIT FOR PRODUCED WATER.--

11 A. An operator that files a New Mexico corporate
12 income tax return may take a tax credit in an amount equal to
13 one thousand dollars (\$1,000) per acre-foot of produced water
14 not to exceed four hundred thousand dollars (\$400,000) per year
15 if the following conditions are met:

16 (1) the operator delivers the water to the
17 interstate stream commission at the Pecos river in compliance
18 with the applicable requirements of New Mexico's Water Quality
19 Act, New Mexico's water quality control commission regulations
20 and federal clean water acts;

21 (2) the operator delivers the water solely in
22 a manner approved by the interstate stream commission to
23 contribute to delivery obligations pursuant to the Pecos River
24 Compact; and

25 (3) upon delivery to the interstate stream

.159626.1

underscored material = new
[bracketed material] = delete

1 commission at the Pecos river, title is transferred to the
2 interstate stream commission, which shall indemnify the
3 operator from future liability.

4 B. The tax credit provided in this section may only
5 be deducted from the operator's corporate income tax liability.
6 Any portion of the tax credit provided in this section that
7 remains unused at the end of the operator's taxable year may be
8 carried forward for three consecutive taxable years.

9 C. As used in this section:

10 (1) "operator" means a person who operates an
11 oil or gas well; and

12 (2) "produced water" means water produced from
13 oil or gas drilling and production from a depth of two thousand
14 five hundred feet or more below the surface.

15 D. The interstate stream commission shall provide
16 legal confirmation of receipt of the water from the operator,
17 and the operator shall provide documentation to the department
18 to prove eligibility for the tax credit provided in this
19 section."

20 Section 3. DELAYED REPEAL.--Sections 1 and 2 of this act
21 are repealed effective January 1, 2010.

22 Section 4. APPLICABILITY.--The provisions of this act
23 apply to taxable years beginning on or after January 1, 2006.

24 - 4 -

25