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HOUSE BILL 46

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Andrew Nunez

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A PERSONAL INCOME TAX CREDIT
AND A CORPORATE INCOME TAX CREDIT FOR AGRICULTURAL WATER
CONSERVATION EXPENSES.

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] TAX CREDIT-- AGRICULTURAL WATER
CONSERVATION EXPENSES. --

A. A taxpayer may claim a credit against his
income tax liability equal to seventy-five percent of his
incurred expenses, not to exceed a maximum annual credit of
fifty thousand dollars (\$50,000), for eligible improvements in
irrigation systems or water management methods. The credit
may be claimed for the taxable year in which the expenses are

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1 incurred if the taxpayer in that year:

2 (1) owned or leased a water right appurtenant
3 to the land on which an eligible improvement was made;

4 (2) files an individual New Mexico income tax
5 return; and

6 (3) is not a dependent of another individual.

7 B. As used in this section, "eligible improvement
8 in irrigation systems or water management methods" means an
9 improvement that is:

10 (1) made after January 1, 2003;

11 (2) consistent and complies with a water
12 conservation plan approved by the local soil and water
13 conservation district in which the improvement is located; and

14 (3) primarily designed to substantially
15 conserve water on land in New Mexico that is owned or leased
16 by the taxpayer and used by the taxpayer or the taxpayer's
17 lessee to:

18 (a) produce agricultural products;

19 (b) harvest or grow trees; or

20 (c) sustain livestock.

21 C. Taxpayers who are considered for federal income
22 tax purposes as co-owners of the land on which an improvement
23 in irrigation systems or water management methods is made may
24 claim the pro rata share of the credit allowed pursuant to
25 this section based on the co-owner's ownership interest. The

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1 total of the credits allowed all the taxpayers considered co-
2 owners may not exceed the amount that would have been allowed
3 a sole owner of the land.

4 D. A husband and wife who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the credit that would
7 have been allowed on a joint return.

8 E. If the allowable tax credit in a taxable year
9 exceeds the income taxes otherwise due from a taxpayer
10 pursuant to the Income Tax Act, or if there are no income
11 taxes due from the taxpayer, the taxpayer may carry forward
12 the amount of the credit not used in that year to offset the
13 taxpayer's liability for income taxes pursuant to the Income
14 Tax Act for not more than five consecutive taxable years.

15 F. The soil and water conservation commission
16 shall promulgate rules to implement this section, and those
17 rules shall include detailed guidelines to assist the
18 department in determining whether improvements in irrigation
19 systems or water management methods qualify for the credit
20 available under this section."

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

23 "[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER
24 CONSERVATION EXPENSES. --

25 A. A taxpayer may claim a credit against his

1 corporate income tax liability equal to seventy-five percent
2 of his incurred expenses, not to exceed a maximum annual
3 credit of fifty thousand dollars (\$50,000), for eligible
4 improvements in irrigation systems or water management
5 methods. The credit may be claimed for the taxable year in
6 which the expenses are incurred if the taxpayer in that year:

7 (1) owned or leased a water right appurtenant
8 to the land on which an eligible improvement was made;

9 (2) files a New Mexico corporate income tax
10 return; and

11 (3) is not a dependent of another individual.

12 B. As used in this section, "eligible improvement
13 in irrigation systems or water management methods" means an
14 improvement that is:

15 (1) made after January 1, 2003;

16 (2) consistent and complies with a water
17 conservation plan approved by the local soil and water
18 conservation district in which the improvement is located; and

19 (3) primarily designed to substantially
20 conserve water on land in New Mexico that is owned or leased
21 by the taxpayer and used by the taxpayer or the taxpayer's
22 lessee to:

23 (a) produce agricultural products;

24 (b) harvest or grow trees; or

25 (c) sustain livestock.

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1 C. Taxpayers who are considered for federal income
2 tax purposes as co-owners of the land on which an improvement
3 in irrigation systems or water management methods is made may
4 claim the pro rata share of the credit allowed pursuant to
5 this section based on the co-owner's ownership interest. The
6 total of the credits allowed all the taxpayers considered co-
7 owners may not exceed the amount that would have been allowed
8 a sole owner of the land.

9 D. If the allowable tax credit in a taxable year
10 exceeds the income taxes otherwise due from a taxpayer
11 pursuant to the Corporate Income and Franchise Tax Act, or if
12 there are no taxes due pursuant to the Corporate Income and
13 Franchise Tax Act, the taxpayer may carry forward the amount
14 of the credit not used in that year to offset the taxpayer's
15 liability for income taxes pursuant to the Corporate Income
16 and Franchise Tax Act for not more than five consecutive tax
17 years.

18 E. The soil and water conservation commission
19 shall promulgate rules to implement this section, and those
20 rules shall include detailed guidelines to assist the
21 department in determining whether improvements in irrigation
22 systems or water management methods qualify for the credit
23 available under this section. "

24 Section 3. APPLICABILITY. -- The provisions of this act
25 apply to taxable years beginning on and after January 1, 2003.

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1 Section 4. EFFECTIVE DATE. --The effective date of the
2 provisions of this act is July 1, 2003.

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