

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 388

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

AN ACT

RELATING TO TAXATION; PROVIDING FOR INCOME TAX AND CORPORATE
INCOME TAX CREDITS FOR INVESTMENTS IN CLEANING WATER PRODUCED
FROM OIL AND GAS DRILLING AND PRODUCTION, CRUDE OIL REFINING
AND NATURAL GAS PROCESSING.

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
and who produces water in the course of producing oil or gas
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

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1 following conditions are met:

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

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

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

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

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

25 D. As used in this section, "produced water" means

1 water produced from oil or gas drilling and production from a
2 depth of three thousand feet or more below the surface.

3 E. As used in this section, "operator" means a
4 refinery, a natural gas processor or a person who operates an
5 oil or gas well.

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

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

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

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

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

25 (2) the operator delivers the water solely in

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1 a manner approved by the interstate stream commission to
2 contribute to delivery obligations pursuant to the Pecos River
3 Compact; and

4 (3) upon delivery to the interstate stream
5 commission at the Pecos river, title is transferred to the
6 interstate stream commission, which shall indemnify the
7 operator from future liability.

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

14 C. As used in this section, "produced water" means
15 water produced from oil or gas drilling and production from a
16 depth of three thousand feet or more below the surface.

17 D. As used in this section, "operator" means a
18 refinery, a natural gas processor or a person who operates an
19 oil or gas well.

20 E. The interstate stream commission shall provide
21 legal confirmation of receipt of the water from the operator,
22 and the operator shall provide documentation to the department
23 to prove eligibility for the tax credit provided in this
24 section. "

25 Section 3. DELAYED REPEAL. -- Sections 1 and 2 of this act

1 are repealed effective January 1, 2006.

2 Section 4. APPLICABILITY. --The provisions of this act
3 apply to taxable years beginning on or after January 1, 2002.

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