

HOUSE BILL 326

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Joe M. Stell

AN ACT

RELATING TO TAXATION; PROVIDING FOR A TAX CREDIT FOR WATER RIGHTS DONATED TO THE STRATEGIC WATER RESERVE.

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--DONATION OF WATER RIGHTS TO THE STRATEGIC WATER RESERVE.--

A. A person 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 water rights donated during the taxable year to the strategic water reserve administered by the interstate stream commission pursuant to Section 72-14-3 NMSA 1978, but not to exceed one hundred thousand dollars

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1 (\$100,000) per year.

2 B. A taxpayer may apply for certification of  
3 eligibility for the tax credit provided in this section from  
4 the interstate stream commission, which shall determine the  
5 sufficiency of the applicant's water rights to meet the  
6 criteria of the strategic water reserve. The interstate stream  
7 commission shall issue a certification of eligibility to the  
8 applicant containing this information.

9 C. To claim the credit provided in this section, a  
10 taxpayer shall submit to the department a certification of  
11 eligibility issued by the interstate stream commission pursuant  
12 to Subsection B of this section, along with any other  
13 information the department may require to determine the amount  
14 of the tax credit due the taxpayer.

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

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

25 F. As used in this section, "water right" means:

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1 (1) a title to use water as decreed by a state  
2 district court pursuant to a water rights adjudication; or

3 (2) a water right recognized by the state  
4 engineer as having sufficient seniority and consistent historic  
5 beneficial use to effectively contribute to the purpose of the  
6 strategic water reserve."

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

9 "[NEW MATERIAL] TAX CREDIT--DONATION OF WATER RIGHTS TO  
10 THE STRATEGIC WATER RESERVE.--

11 A. A taxpayer 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 water rights  
14 donated during the taxable year to the strategic water reserve  
15 administered by the interstate stream commission pursuant to  
16 Section 72-14-3 NMSA 1978, and not to exceed one hundred  
17 thousand dollars (\$100,000) per year.

18 B. A taxpayer may apply for certification of  
19 eligibility for the tax credit provided in this section from  
20 the interstate stream commission, which shall determine the  
21 sufficiency of the applicant's water rights to meet the  
22 criteria of the strategic water reserve. The interstate stream  
23 commission shall issue a certification of eligibility to the  
24 applicant containing this information.

25 C. To claim the credit provided in this section, a

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1 taxpayer shall submit to the department a certification of  
2 eligibility issued by the interstate stream commission pursuant  
3 to Subsection B of this section, along with any other  
4 information the department may require to determine the amount  
5 of the tax credit due the taxpayer.

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

12 E. As used in this section, "water right" means:

13 (1) a title to use water as decreed by a state  
14 district court pursuant to a water rights adjudication; or

15 (2) a water right recognized by the state  
16 engineer as having sufficient seniority and consistent historic  
17 beneficial use to effectively contribute to the purpose of the  
18 strategic water reserve."

19 Section 3. CONTINGENCY.--The provisions of Sections 1 and  
20 2 of this act are effective contingent upon enactment into law  
21 of legislation that creates a strategic water reserve  
22 administered by the interstate stream commission.