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SENATE BILL 362

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

INTRODUCED BY

Carlos R. Cisneros

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

.150300.1

underscored material = new
[bracketed material] = delete

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.