

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 105

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Pauline K. Gubbels

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A PERSONAL INCOME TAX AND  
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. To encourage the conservation of water in  
agricultural activities, any taxpayer who presents evidence  
satisfactory to the secretary that he holds a water right in  
New Mexico, who files an individual New Mexico income tax  
return and who is not the dependent of another individual may  
claim a credit against his income tax liability equal to

. 124808. 1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 seventy-five percent of his incurred expenses, not to exceed a  
2 maximum credit of fifty thousand dollars (\$50,000), for  
3 improvements in irrigation systems or water management methods  
4 that comply with a water conservation plan approved by the  
5 state engineer in the year in which the expenses are incurred.

6 B. To qualify for the credit pursuant to this  
7 section:

8 (1) the improvements in irrigation systems or  
9 water management methods must be primarily designed to  
10 substantially conserve water on land in this state that is  
11 owned by the taxpayer and used by the taxpayer or the  
12 taxpayer's tenant to:

- 13 (a) produce crops, fruits or other
- 14 agricultural products;
- 15 (b) raise, harvest or grow trees; or
- 16 (c) sustain livestock;

17 (2) the expense for the improvements in  
18 irrigation systems or water management methods must be  
19 incurred after January 1, 2000 and must be consistent with an  
20 effective water conservation plan that the taxpayer has filed  
21 with the United States department of agriculture natural  
22 resources conservation service; and

23 (3) the land on which the improvements in  
24 irrigation systems or water management methods occur must be  
25 located in this state and be entirely in an area identified,

underscored material = new  
[bracketed material] = delete

1 in the taxable year or in any preceding taxable year, as an  
2 area of extreme drought severity on the Palmer drought  
3 severity index published by the national oceanic and  
4 atmospheric administration.

5 C. Co-owners of the land on which the improvements  
6 in irrigation systems or water management methods occur,  
7 including partners in a partnership and shareholders of an S  
8 corporation, as defined in Section 1361 of the Internal  
9 Revenue Code of 1986, as amended, may each claim only the pro  
10 rata share of the credit allowed under this section based on  
11 the ownership interest. The total of the credits allowed all  
12 the owners may not exceed the amount that would have been  
13 allowed a sole owner of the land.

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

18 E. If the allowable tax credit in the year the  
19 credit becomes claimable exceeds the taxes otherwise due  
20 pursuant to the Income Tax Act on the taxpayer's income, or if  
21 there are no income taxes due from the taxpayer, the taxpayer  
22 may carry forward the amount of the credit not used in that  
23 year to offset taxes pursuant to the Income Tax Act for not  
24 more than five consecutive taxable years' income tax  
25 liability. This credit may only be deducted from the

underscored material = new  
[bracketed material] = delete

1 taxpayer's income tax liability.

2 F. This credit may not be claimed if any deduction  
3 for the expenses incurred for improvements in irrigation  
4 systems or water management methods is claimed pursuant to the  
5 Internal Revenue Code.

6 G. The soil and water conservation bureau of the  
7 forestry division of the energy, minerals and natural  
8 resources department shall promulgate rules to implement this  
9 section and establish guidelines to determine whether  
10 improvements in irrigation systems or water management methods  
11 qualify for the credit available under this section."

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

14 "[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER  
15 CONSERVATION EXPENSES. --

16 A. To encourage the conservation of water in  
17 agricultural activities, any taxpayer that presents evidence  
18 satisfactory to the secretary that it holds a water right in  
19 New Mexico and that files a New Mexico corporate income tax  
20 return may claim a credit against its corporate income tax  
21 liability equal to seventy-five percent of its incurred  
22 expenses, not to exceed a maximum credit of fifty thousand  
23 dollars (\$50,000), for improvements in irrigation systems or  
24 water management methods that comply with a water conservation  
25 plan approved by the state engineer, in the year in which

underscored material = new  
[bracketed material] = delete

1 expenses are incurred.

2 B. To qualify for the credit pursuant to this  
3 section:

4 (1) the improvements in irrigation systems or  
5 water management methods must be primarily designed to  
6 substantially conserve water on land that is owned by the  
7 taxpayer and used by the taxpayer or the taxpayer's tenant to:

8 (a) produce crops, fruits or other  
9 agricultural products;

10 (b) raise, harvest or grow trees; or

11 (c) sustain livestock;

12 (2) the expense for the improvements in  
13 irrigation systems or water management methods must be  
14 incurred after January 1, 2000 and must be consistent with an  
15 effective water conservation plan that the taxpayer has filed  
16 with the United States department of agriculture natural  
17 resources conservation service; and

18 (3) the land on which the improvements in  
19 irrigation systems or water management methods occur must be  
20 located in this state and be entirely in an area that has been  
21 identified, in the taxable year or in any preceding taxable  
22 year, as an area of extreme drought severity on the Palmer  
23 drought severity index published by the national oceanic and  
24 atmospheric administration.

25 C. Co-owners of the land on which the improvements

underscored material = new  
[bracketed material] = delete

1 in irrigation systems or water management methods occur,  
2 including corporate partners in a partnership, may each claim  
3 only the pro rata share of the credit allowed pursuant to this  
4 section based on the ownership interest. The total of the  
5 credits allowed all the owners may not exceed the amount that  
6 would have been allowed a sole owner of the land.

7 D. If the allowable tax credit in the year the  
8 credit becomes claimable exceeds the taxes otherwise due  
9 pursuant to the Corporate Income and Franchise Tax Act on the  
10 taxpayer's corporate income, or if there are not taxes due  
11 pursuant to the Corporate Income and Franchise Tax Act, the  
12 taxpayer may carry forward the amount of the credit not used  
13 to offset taxes pursuant to the Corporate Income and Franchise  
14 Tax Act for not more than five consecutive taxable years'  
15 corporate income tax liability.

16 E. The credit may not be claimed if any allowance  
17 for state tax purposes is taken by the taxpayer for a  
18 deduction for the expenses incurred for improvements in  
19 irrigation systems or water management methods pursuant to the  
20 Internal Revenue Code.

21 F. The soil and water conservation bureau of the  
22 forestry division of the energy, minerals and natural  
23 resources department shall promulgate rules to implement this  
24 section and establish guidelines to determine whether  
25 improvements in irrigation systems or water management methods

underscored material = new  
[bracketed material] = delete

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

that occur qualify for the credit available under this section. "

Section 3. APPLICABILITY. --The provisions of this act apply to taxable years beginning on and after January 1, 2000.

Section 4. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2000.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 February 4, 1999

7  
8 Mr. Speaker:

9  
10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE,  
11 to whom has been referred

12  
13 HOUSE BILL 105

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO NOT PASS, but that

17 HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE  
18 SUBSTITUTE FOR HOUSE BILL 105

19  
20 DO PASS, amended as follows:

21  
22 1. On page 3, line 23, strike "department of agriculture"  
23 and insert in lieu thereof "office of the state engineer".

24  
25 2. On page 5, line 25, strike "department of agriculture"  
and insert in lieu thereof "office of the state engineer".,



FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HAGC/HB 105, aa

Page 9

and thence referred to the TAXATION AND REVENUE  
COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Joe M Stell, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: None

Absent: None

J: \99BillSWP\H0105

. 124808. 1

underscored material = new  
[bracketed material] = delete

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 105

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO TAXATION; PROVIDING A PERSONAL INCOME TAX AND  
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. To encourage the conservation of water in  
agricultural activities, any taxpayer who presents evidence  
satisfactory to the secretary that he holds a water right in  
New Mexico, who files an individual New Mexico income tax  
return and who is not the dependent of another individual may  
claim a credit against his income tax liability equal to  
seventy-five percent of his incurred expenses, not to exceed a  
maximum credit of fifty thousand dollars (\$50,000), for  
improvements in irrigation systems or water management methods

that are part of a water conservation plan.

B. To qualify for the credit pursuant to this section:

(1) the improvements in irrigation systems or water management methods must be primarily designed to substantially conserve water on land in this state that is owned by the taxpayer and used by the taxpayer or the taxpayer's tenant to:

(a) produce crops, fruits or other agricultural products;

(b) raise, harvest or grow trees; or

(c) sustain livestock;

(2) the expense for the improvements in irrigation systems or water management methods must be incurred after January 1, 2000 and must be consistent with an effective water conservation plan that the taxpayer has filed with the local soil and water conservation district; and

(3) the land on which the improvements in irrigation systems or water management methods occur must be located in this state and be entirely in a described area.

C. Co-owners of the land on which the improvements in irrigation systems or water management methods occur, including partners in a partnership and shareholders of an S corporation, as defined in Section 1361 of the Internal Revenue Code may each claim only the pro rata share of the credit allowed pursuant to this section based on the ownership interest. The total of the credits allowed all the owners may not exceed the amount that would have been allowed a sole owner of the land.

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

. 126482. 1

1 have been allowed on a joint return.

2 E. If the allowable tax credit in the year the credit  
3 becomes claimable exceeds the taxes otherwise due pursuant to the  
4 Income Tax Act on the taxpayer's income, or if there are no  
5 income taxes due from the taxpayer, the taxpayer may carry  
6 forward the amount of the credit not used in that year to offset  
7 taxes pursuant to the Income Tax Act for not more than five  
8 consecutive taxable years' income tax liability. This credit may  
9 only be deducted from the taxpayer's income tax liability.

10 F. This credit may not be claimed if any deduction  
11 for the expenses incurred for improvements in irrigation systems  
12 or water management methods is claimed pursuant to the Internal  
13 Revenue Code.

14 G. The New Mexico department of agriculture shall  
15 promulgate rules to implement this section and establish  
16 guidelines to determine whether improvements in irrigation  
17 systems or water management methods qualify for the credit  
18 available pursuant to this section. "

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

21 "[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER CONSERVATION  
22 EXPENSES. --

23 A. To encourage the conservation of water in  
24 agricultural activities, any taxpayer that presents evidence  
25 satisfactory to the secretary that it holds a water right in New  
Mexico and that files a New Mexico corporate income tax return  
may claim a credit against its corporate income tax liability  
equal to seventy-five percent of its incurred expenses, not to

1 exceed a maximum credit of fifty thousand dollars (\$50,000), for  
 2 improvements in irrigation systems or water management methods  
 3 that are part of a water conservation plan.

4 B. To qualify for the credit pursuant to this  
 5 section:

6 (1) the improvements in irrigation systems or  
 7 water management methods must be primarily designed to  
 8 substantially conserve water on land that is owned by the  
 9 taxpayer and used by the taxpayer or the taxpayer's tenant to:

10 (a) produce crops, fruits or other  
 11 agricultural products;

12 (b) raise, harvest or grow trees; or

13 (c) sustain livestock;

14 (2) the expense for the improvements in  
 15 irrigation systems or water management methods must be incurred  
 16 after January 1, 2000 and must be consistent with an effective  
 17 water conservation plan that the taxpayer has filed with the  
 18 local soil and water conservation district; and

19 (3) the land on which the improvements in  
 20 irrigation systems or water management methods occur must be  
 21 located in this state and be entirely in a described area.

22 C. Co-owners of the land on which the improvements in  
 23 irrigation systems or water management methods occur, including  
 24 corporate partners in a partnership, may each claim only the pro  
 25 rata share of the credit allowed pursuant to this section based  
 on the ownership interest. The total of the credits allowed all  
 the owners may not exceed the amount that would have been allowed  
 a sole owner of the land.

1           D. If the allowable tax credit in the year the credit  
2 becomes claimable exceeds the taxes otherwise due pursuant to the  
3 Corporate Income and Franchise Tax Act on the taxpayer's  
4 corporate income, or if there are not taxes due pursuant to the  
5 Corporate Income and Franchise Tax Act, the taxpayer may carry  
6 forward the amount of the credit not used to offset taxes  
7 pursuant to the Corporate Income and Franchise Tax Act for not  
8 more than five consecutive taxable years' corporate income tax  
9 liability.

10           E. The New Mexico department of agriculture shall  
11 promulgate rules to implement this section and establish  
12 guidelines to determine whether improvements in irrigation  
13 systems or water management methods that occur qualify for the  
14 credit available pursuant to this section."

15           Section 3. APPLICABILITY. --The provisions of this act  
16 apply to taxable years beginning on and after January 1, 2000.

17           Section 4. EFFECTIVE DATE. --The effective date of the  
18 provisions of this act is July 1, 2000.

underscored material = new  
[bracketed material] = delete