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SENATE BILL 45

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

INTRODUCED BY

Sue F. Wilson

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
seventy-five percent of his incurred expenses, not to exceed a

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1 maximum credit of fifty thousand dollars (\$50,000), for
2 improvements in irrigation systems or water management methods
3 that comply with a water conservation plan approved by the
4 state engineer in the year in which the expenses are incurred.

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

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

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

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

15 (c) sustain livestock;

16 (2) the expense must be incurred after
17 January 1, 1997 and must be consistent with an effective water
18 conservation plan that the taxpayer has filed with the United
19 States department of agriculture natural resources
20 conservation service; and

21 (3) the land on which the improvements in
22 irrigation systems or water management methods occur must be
23 located in this state and be entirely in an area identified,
24 in the taxable year or in any preceding taxable year, as an
25 area of extreme drought severity on the Palmer drought

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1 severity index published by the national oceanic and
2 atmospheric administration.

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

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

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

24 F. This credit may not be claimed if any deduction
25 for such expenses is claimed under the Internal Revenue Code.

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1 G. The soil and water conservation bureau of the
2 forestry division of the energy, minerals and natural
3 resources department shall promulgate rules and regulations to
4 implement this section and establish guidelines to determine
5 whether improvements in irrigation systems or water management
6 methods qualify for the credit available under this section."

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

9 "NEW MATERIAL TAX CREDIT--AGRICULTURAL WATER
10 CONSERVATION EXPENSES. --

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

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

24 (1) the improvements in irrigation systems or
25 water management methods must be primarily designed to

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1 substantially conserve water on land that is owned by the
2 taxpayer and used by the taxpayer or the taxpayer's tenant to:

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

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

6 (c) sustain livestock;

7 (2) the expense must be incurred after
8 January 1, 2000 and must be consistent with an effective water
9 conservation plan that the taxpayer has filed with the United
10 States department of agriculture natural resources
11 conservation service; and

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

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

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

E. The credit may not be claimed if any allowance for state tax purposes is taken by the taxpayer for a deduction for such expenses allowed by the Internal Revenue Code.

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

CS/SB 45/a

3
4 February 4, 1999

5
6 Mr. President:

7
8 Your CONSERVATION COMMITTEE, to whom has been referred

9
10
11 SENATE BILL 45

12
13 has had it under consideration and reports same with
14 recommendation that it DO NOT PASS, but that

15
16 SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR

17
18 SENATE BILL 45

19
20 DO PASS, amended as follows:

21
22 1. On page 3, line 23 delete "The New Mexico department of
23 agriculture" and insert "Office of the State Engineer.",

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25 and thence referred to the WAYS & MEANS COMMITTEE.

Respectfully submitted,

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Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Eisenstadt, Sanchez, Macias

Absent: None

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SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 45

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

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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

. 126483. 1

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 are part of a water conservation plan.

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

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

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

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

15 (c) sustain livestock;

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

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

24 C. Co-owners of the land on which the improvements
25 in irrigation systems or water management methods occur,

1 including partners in a partnership and shareholders of an S
2 corporation, as defined in Section 1361 of the Internal Revenue
3 Code may each claim only the pro rata share of the credit allowed
4 pursuant to this section based on the ownership interest. The
5 total of the credits allowed all the owners may not exceed the
6 amount that would have been allowed a sole owner of the land.

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

11 E. If the allowable tax credit in the year the credit
12 becomes claimable exceeds the taxes otherwise due pursuant to the
13 Income Tax Act on the taxpayer's income, or if there are no
14 income taxes due from the taxpayer, the taxpayer may carry
15 forward the amount of the credit not used in that year to offset
16 taxes pursuant to the Income Tax Act for not more than five
17 consecutive taxable years' income tax liability. This credit may
18 only be deducted from the taxpayer's income tax liability.

19 F. This credit may not be claimed if any deduction for
20 the expenses incurred for improvements in irrigation systems or
21 water management methods is claimed pursuant to the Internal
22 Revenue Code.

23 G. The New Mexico department of agriculture shall
24 promulgate rules to implement this section and establish
25 guidelines to determine whether improvements in irrigation

1 systems or water management methods qualify for the credit
2 available pursuant to this section. "

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

5 "[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER CONSERVATION
6 EXPENSES. --

7 A. To encourage the conservation of water in
8 agricultural activities, any taxpayer that presents evidence
9 satisfactory to the secretary that it holds a water right in New
10 Mexico and that files a New Mexico corporate income tax return
11 may claim a credit against its corporate income tax liability
12 equal to seventy-five percent of its incurred expenses, not to
13 exceed a maximum credit of fifty thousand dollars (\$50,000), for
14 improvements in irrigation systems or water management methods
15 that are part of a water conservation plan.

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

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

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

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

24 (c) sustain livestock;

25 (2) the expense for the improvements in irrigation

1 systems or water management methods must be incurred after
2 January 1, 2000 and must be consistent with an effective water
3 conservation plan that the taxpayer has filed with the local soil
4 and water conservation district; and

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

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

15 D. If the allowable tax credit in the year the credit
16 becomes claimable exceeds the taxes otherwise due pursuant to the
17 Corporate Income and Franchise Tax Act on the taxpayer's
18 corporate income, or if there are not taxes due pursuant to the
19 Corporate Income and Franchise Tax Act, the taxpayer may carry
20 forward the amount of the credit not used to offset taxes
21 pursuant to the Corporate Income and Franchise Tax Act for not
22 more than five consecutive taxable years' corporate income tax
23 liability.

24 E. The New Mexico department of agriculture shall
25 promulgate rules to implement this section and establish

. 126483. 1

1 guidelines to determine whether improvements in irrigation
2 systems or water management methods that occur qualify for the
3 credit available pursuant to this section. "

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

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

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