

HOUSE BILL 154

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF "ADVANCED ENERGY PRODUCT" IN THE ADVANCED ENERGY EQUIPMENT INCOME TAX CREDIT AND THE ADVANCED ENERGY EQUIPMENT CORPORATE INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2-18.39 NMSA 1978 (being Laws 2024, Chapter 67, Section 35) is amended to read:

"7-2-18.39. ADVANCED ENERGY EQUIPMENT INCOME TAX
CREDIT.--

A. The tax credit provided by this section may be referred to as the "advanced energy equipment income tax credit". A taxpayer who is not a dependent of another individual, who makes qualified expenditures for a qualified manufacturing facility located in New Mexico and who files an

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1 individual New Mexico income tax return for a taxable year
2 beginning on or after January 1, 2025, and prior to January 1,
3 2033, may claim the tax credit in the amount provided in
4 Subsection B of this section.

5 B. The amount of the tax credit shall be in an
6 amount equal to the lesser of twenty percent of the amount of
7 the qualified expenditures made by the taxpayer for a qualified
8 manufacturing facility or twenty-five million dollars
9 (\$25,000,000).

10 C. Prior to incurring a qualified expenditure, a
11 taxpayer shall apply for preliminary certification of
12 eligibility for the tax credit from the energy, minerals and
13 natural resources department on forms and in the manner
14 prescribed by that department. Such preliminary certification
15 shall be made in consultation with the economic development
16 department and shall be limited to confirming that the
17 qualified expenditures proposed to be made by the taxpayer will
18 in whole or in part be used to produce advanced energy products
19 and providing an estimate of the amount of tax credit for which
20 the taxpayer may be eligible. Only one certificate of
21 eligibility shall be issued for all activities performed at a
22 qualified manufacturing facility, regardless of ownership of
23 the facility.

24 D. Within twelve months of commencement of
25 production of any advanced energy product, the taxpayer shall

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1 seek final certification from the energy, minerals and natural
2 resources department. The total annual aggregate amount of
3 advanced energy equipment income tax credits and advanced
4 energy equipment corporate income tax credits that may be
5 certified in a calendar year shall not exceed twenty-five
6 million dollars (\$25,000,000). An application for final
7 certification shall include information required by the energy,
8 minerals and natural resources department to determine
9 eligibility for the tax credit, including information
10 substantiating qualified expenditures. If, after consultation
11 with the economic development department, the energy, minerals
12 and natural resources department determines that the taxpayer
13 meets the requirements of this section, the energy, minerals
14 and natural resources department shall issue a dated
15 certificate of eligibility to the taxpayer providing the amount
16 of tax credit for which the taxpayer is eligible and the
17 taxable years in which the credit may be claimed. The energy,
18 minerals and natural resources department shall provide the
19 department with the certificates of eligibility issued pursuant
20 to this subsection in an electronic format at regularly agreed-
21 upon intervals. A certificate of eligibility for the tax
22 credit may be sold, exchanged or otherwise transferred to
23 another taxpayer in increments of not less than one million
24 dollars (\$1,000,000); provided that if the total amount
25 certified is less than one million dollars (\$1,000,000), the

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1 certificate of the entire amount of the credit may be
2 transferred. The parties to such a transaction shall notify
3 the department of the sale, exchange or transfer within ten
4 days of the sale, exchange or transfer in an electronic format
5 prescribed by the department.

6 E. A taxpayer allowed to claim the tax credit shall
7 claim the credit in a manner required by the department. The
8 tax credit shall be claimed within one year of receiving final
9 certification from the energy, minerals and natural resources
10 department. The taxpayer shall claim the amount certified and
11 approved against the taxpayer's income tax liabilities. Any
12 amount of credit that exceeds the taxpayer's income tax
13 liabilities may be carried forward for five consecutive taxable
14 years. A taxpayer who claims the tax credit shall report to
15 the department and the energy, minerals and natural resources
16 department on the continued operations of the qualified
17 manufacturing facility.

18 F. Married individuals filing separate returns for
19 a taxable year for which they could have filed a joint return
20 may each claim only one-half of the tax credit that would have
21 been claimed on a joint return.

22 G. A taxpayer may be allocated the right to claim
23 the tax credit in a proportion to the taxpayer's ownership
24 interest if the taxpayer owns an interest in a business entity
25 that is taxed for federal income tax purposes as a partnership

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1 or limited liability company and that business entity has met
2 all of the requirements to be eligible for the credit. The
3 total credit claimed by all members of the partnership or
4 limited liability company shall not exceed the allowable credit
5 pursuant to this section.

6 H. If the taxpayer or a successor in the business
7 of the taxpayer ceases operations at the qualifying
8 manufacturing facility or ceases to produce advanced energy
9 products for at least one hundred eighty days within a two-year
10 period after the taxpayer has claimed the tax credit, any
11 amount of credit that received final certification with respect
12 to that facility that is not claimed against a taxpayer's tax
13 liability shall be extinguished, and within thirty days after
14 the one hundred eightieth day of cessation of operations, the
15 taxpayer who received final certification pursuant to
16 Subsection D of this section shall pay to the department the
17 tax liability against which the certified credit was claimed.
18 For the purposes of this section, a taxpayer shall not be
19 deemed to have ceased operations during reasonable periods for
20 maintenance or retooling, for the repair or replacement of
21 facilities damaged or destroyed or during labor disputes.

22 I. The tax credit provided by this section shall be
23 included in the tax expenditure budget pursuant to Section
24 7-1-84 NMSA 1978, including the annual aggregate cost of the
25 tax credit.

[I.] J. As used in this section:

(1) "advanced energy product" means [a technology, product, system or component eligible for a federal tax credit under Section 45X of the Internal Revenue Code]:

(a) a solar energy component, including
a solar module, photovoltaic cell, photovoltaic wafer, solar-
grade polysilicon, torque tube, structural fastener or
polymeric backsheet;

(b) a wind energy component, including a
wind turbine blade, nacelle and tower;

(c) a battery component, including an
electrode-active material, a battery cell and a battery module;

(d) a fusion machine and the components of a fusion machine that can transform atomic nuclei through fusion processes into different elements, isotopes or other particles, including associated systems essential to facilitate fusion processes;

(e) a critical mineral, if converted or purified to specified purities or forms, including aluminum, antimony, arsenic, barite, bismuth, cerium, cesium, chromium, cobalt, dysprosium, erbium, europium, fluorspar, gadolinium, gallium, germanium, graphite, hafnium, holmium, indium, iridium, lanthanum, lithium, lutetium, magnesium, manganese, neodymium, nickel, niobium, palladium, platinum, praseodymium, rhodium, rubidium, ruthenium, samarium, tantalum, tellurium,

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terbium, thulium, tin, titanium, tungsten, vanadium, ytterbium, yttrium, zinc and zirconium; and

(f) an inverter that is an end product, which is suitable to convert direct current energy from one or more solar module or certified distributed wind energy systems into alternating current electricity, including a central inverter, commercial inverter, distributed wind inverter, microinverter, residential inverter or utility inverter;

(2) "essential" means directly necessary to the production of an advanced energy [products] product;

(3) "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's qualified manufacturing facility and that is subject to depreciation pursuant to the Internal Revenue Code by the taxpayer carrying on the manufacturing.

"Manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

(4) "qualified expenditure" means an expenditure made on or after January 1, 2025 and prior to January 1, 2033 for the purchase of that portion of the costs of manufacturing equipment dedicated to manufacturing advanced

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1 energy products; and

2 (5) "qualified manufacturing facility" means a
3 facility located in New Mexico, including any connected,
4 associated or subsidiary facilities, that employs personnel to
5 perform production tasks with manufacturing equipment not
6 previously existing at the facility to produce advanced energy
7 products."

8 SECTION 2. Section 7-2A-19.3 NMSA 1978 (being Laws 2024,
9 Chapter 67, Section 36) is amended to read:

10 "7-2A-19.3. ADVANCED ENERGY EQUIPMENT CORPORATE INCOME
11 TAX CREDIT.--

12 A. The tax credit provided by this section may be
13 referred to as the "advanced energy equipment corporate income
14 tax credit". A taxpayer that makes qualified expenditures for
15 a qualified manufacturing facility located in New Mexico and
16 that files a corporate income tax return for a taxable year
17 beginning on or after January 1, 2025, and prior to January 1,
18 2033, may claim the tax credit in the amount provided in
19 Subsection B of this section.

20 B. The amount of the tax credit shall be in an
21 amount equal to the lesser of twenty percent of the amount of
22 the qualified expenditures made by the taxpayer for a qualified
23 manufacturing facility or twenty-five million dollars
24 (\$25,000,000).

25 C. Prior to incurring a qualified expenditure, a

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1 taxpayer shall apply for preliminary certification of
2 eligibility for the tax credit from the energy, minerals and
3 natural resources department on forms and in the manner
4 prescribed by that department. Such preliminary certification
5 shall be made in consultation with the economic development
6 department and shall be limited to confirming that the
7 qualified expenditures proposed to be made by the taxpayer will
8 in whole or in part be used to produce advanced energy products
9 and providing an estimate of the amount of tax credit for which
10 the taxpayer may be eligible. Only one certificate of
11 eligibility shall be issued for all activities performed at a
12 qualified manufacturing facility, regardless of ownership of
13 the facility.

14 D. Within twelve months of commencement of
15 production of any advanced energy product, the taxpayer shall
16 seek final certification from the energy, minerals and natural
17 resources department. The total annual aggregate amount of
18 advanced energy equipment corporate income tax credits and
19 advanced energy equipment income tax credits that may be
20 certified in a calendar year shall not exceed twenty-five
21 million dollars (\$25,000,000). An application for final
22 certification shall include information required by the energy,
23 minerals and natural resources department to determine
24 eligibility for the tax credit, including information
25 substantiating qualified expenditures. If, after consultation

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1 with the economic development department, the energy, minerals
2 and natural resources department determines that the taxpayer
3 meets the requirements of this section, the energy, minerals
4 and natural resources department shall issue a dated
5 certificate of eligibility to the taxpayer providing the amount
6 of tax credit for which the taxpayer is eligible and the
7 taxable years in which the credit may be claimed. The energy,
8 minerals and natural resources department shall provide the
9 department with the certificates of eligibility issued pursuant
10 to this subsection in an electronic format at regularly agreed-
11 upon intervals. A certificate of eligibility for the tax
12 credit may be sold, exchanged or otherwise transferred to
13 another taxpayer in increments of not less than one million
14 dollars (\$1,000,000); provided that if the total amount
15 certified is less than one million dollars (\$1,000,000), a
16 certificate of the entire amount of the credit may be
17 transferred. The parties to such a transaction shall notify
18 the department of the sale, exchange or transfer within ten
19 days of the sale, exchange or transfer in an electronic format
20 prescribed by the department.

21 E. A taxpayer allowed to claim the tax credit shall
22 claim the credit in a manner required by the department. The
23 tax credit shall be claimed within one year of receiving final
24 certification from the energy, minerals and natural resources
25 department. The taxpayer shall claim the amount certified and

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1 approved against the taxpayer's corporate income tax
2 liabilities. Any amount of credit that exceeds the taxpayer's
3 corporate income tax liabilities may be carried forward for
4 five consecutive taxable years. A taxpayer that claims the tax
5 credit shall report to the department and the energy, minerals
6 and natural resources department on the continued operations of
7 the qualified manufacturing facility.

8 F. If the taxpayer or a successor in the business
9 of the taxpayer ceases operations at the qualifying
10 manufacturing facility or ceases to produce advanced energy
11 products for at least one hundred eighty days within a two-year
12 period after the taxpayer has claimed the tax credit, any
13 amount of credit that received final certification with respect
14 to that facility that is not claimed against a taxpayer's tax
15 liability shall be extinguished, and within thirty days after
16 the one hundred eightieth day of cessation of operations, the
17 taxpayer that received final certification pursuant to
18 Subsection D of this section shall pay to the department the
19 tax liability against which the certified credit was claimed.
20 For the purposes of this section, a taxpayer shall not be
21 deemed to have ceased operations during reasonable periods for
22 maintenance or retooling, for the repair or replacement of
23 facilities damaged or destroyed or during labor disputes.

24 G. The tax credit provided by this section shall be
25 included in the tax expenditure budget pursuant to Section

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1 7-1-84 NMSA 1978, including the annual aggregate cost of the
2 tax credit.

3 [6.] H. As used in this section:

4 (1) "advanced energy product" means [~~a~~
5 ~~technology, product, system or component eligible for a federal~~
6 ~~tax credit under Section 45X of the Internal Revenue Code~~]:

7 (a) a solar energy component, including
8 a solar module, photovoltaic cell, photovoltaic wafer, solar-
9 grade polysilicon, torque tube, structural fastener or
10 polymeric backsheet;

11 (b) a wind energy component, including a
12 wind turbine blade, nacelle and tower;

13 (c) a battery component, including an
14 electrode-active material, a battery cell and a battery module;

15 (d) a fusion machine and the components
16 of a fusion machine that can transform atomic nuclei through
17 fusion processes into different elements, isotopes or other
18 particles, including associated systems essential to facilitate
19 fusion processes;

20 (e) a critical mineral, if converted or
21 purified to specified purities or forms, including aluminum,
22 antimony, arsenic, barite, bismuth, cerium, cesium, chromium,
23 cobalt, dysprosium, erbium, europium, fluorspar, gadolinium,
24 gallium, germanium, graphite, hafnium, holmium, indium,
25 iridium, lanthanum, lithium, lutetium, magnesium, manganese,

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1 neodymium, nickel, niobium, palladium, platinum, praseodymium,
2 rhodium, rubidium, ruthenium, samarium, tantalum, tellurium,
3 terbium, thulium, tin, titanium, tungsten, vanadium, ytterbium,
4 yttrium, zinc and zirconium; and

5 (f) an inverter that is an end product,
6 which is suitable to convert direct current energy from one or
7 more solar module or certified distributed wind energy systems
8 into alternating current electricity, including a central
9 inverter, commercial inverter, distributed wind inverter,
10 microinverter, residential inverter or utility inverter;

11 (2) "essential" means directly necessary to
12 the production of an advanced energy [products] product;

13 (3) "manufacturing equipment" means an
14 essential machine, mechanism or tool or a component of an
15 essential machine, mechanism or tool used directly and
16 exclusively in a taxpayer's qualified manufacturing facility
17 and that is subject to depreciation pursuant to the Internal
18 Revenue Code by the taxpayer carrying on the manufacturing.
19 "Manufacturing equipment" does not include a vehicle that
20 leaves the site of a manufacturing operation for the purpose of
21 transporting persons or property, including property for which
22 the taxpayer claims a credit pursuant to Section 7-9-79 NMSA
23 1978;

24 (4) "qualified expenditure" means an
25 expenditure made on or after January 1, 2025 and prior to

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January 1, 2033 for the purchase of that portion of the costs of manufacturing equipment dedicated to manufacturing advanced energy products; and

(5) "qualified manufacturing facility" means a facility located in New Mexico, including any connected, associated or subsidiary facilities, that employs personnel to perform production tasks with manufacturing equipment not previously existing at the facility to produce advanced energy products."

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2026.

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