

SENATE BILL 113

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

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; INCREASING THE AMOUNT OF AN AGRICULTURAL
BIOMASS INCOME TAX CREDIT AND AN AGRICULTURAL BIOMASS CORPORATE
INCOME TAX CREDIT.

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

SECTION 1. Section 7-2-18.26 NMSA 1978 (being Laws 2010,
Chapter 84, Section 1, as amended) is amended to read:

"7-2-18.26. AGRICULTURAL BIOMASS INCOME TAX CREDIT.--

A. A taxpayer who owns a dairy or feedlot and who
files an individual New Mexico income tax return for a taxable
year ending prior to January 1, 2030, may claim, and the
department may allow, a tax credit equal to [~~five dollars~~
~~(\$5.00)] ten dollars (\$10.00) per wet ton of agricultural
biomass transported from the taxpayer's dairy or feedlot to a
facility that uses agricultural biomass to generate electricity~~

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1 or make biocrude or other liquid or gaseous fuel for commercial
2 use. The tax credit created in this section may be referred to
3 as the "agricultural biomass income tax credit".

4 B. Subject to the limitations pursuant to
5 Subsection D of this section, a taxpayer shall apply for
6 certification of eligibility for the agricultural biomass
7 income tax credit from the energy, minerals and natural
8 resources department on forms and in the manner prescribed by
9 that department. Completed applications shall be considered in
10 the order received. A dated certificate of eligibility shall
11 be issued to the taxpayer providing the amount of credit for
12 which the taxpayer is eligible and the taxable year in which
13 the credit may be claimed.

14 C. The energy, minerals and natural resources
15 department shall:

16 (1) adopt rules establishing procedures to
17 provide certification of transportation of agricultural biomass
18 to a qualified facility that uses agricultural biomass to
19 generate electricity or make biocrude or other liquid or
20 gaseous fuel for commercial use for purposes of obtaining an
21 agricultural biomass income tax credit; and

22 (2) provide the department appropriate
23 information for all certificates of eligibility in a secure
24 manner on regular intervals agreed upon by both departments.

25 D. The aggregate amount of agricultural biomass

1 income tax credits and agricultural biomass corporate income
2 tax credits that may be certified is five million dollars
3 (\$5,000,000) per calendar year. Applications for certification
4 received after this limitation shall not be approved. Any
5 amount of credit that remains unused in a taxable year may be
6 available for certification for a maximum of four consecutive
7 taxable years until the credit is fully utilized.

8 E. Any portion of the agricultural biomass income
9 tax credit that exceeds a taxpayer's income tax liability in
10 the taxable year in which the credit is being claimed may be
11 carried forward for up to three consecutive taxable years. A
12 certificate of eligibility for an agricultural biomass income
13 tax credit may be sold, exchanged or otherwise transferred to
14 another taxpayer for the full value of the credit. The parties
15 to such a transaction shall notify the department of the sale,
16 exchange or transfer within ten days of the sale, exchange or
17 transfer.

18 F. A taxpayer who otherwise qualifies for and
19 claims an agricultural biomass income tax credit with respect
20 to a dairy or feedlot owned by a partnership or other business
21 association of which the taxpayer is a member may claim the
22 credit only in proportion to that taxpayer's interest in the
23 partnership or business association. The total agricultural
24 biomass income tax credits claimed in the aggregate with
25 respect to the same dairy or feedlot by all members of the

1 partnership or business association shall not exceed the amount
2 of the credit that could have been claimed by a single owner of
3 the dairy or feedlot.

4 G. Married individuals who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the credit that would
7 have been allowed on a joint return.

8 H. A taxpayer who claims an agricultural biomass
9 income tax credit shall not also claim an agricultural biomass
10 corporate income tax credit for transportation of the same
11 agricultural biomass on which the claim for that agricultural
12 biomass income tax credit is based.

13 I. A taxpayer allowed a tax credit pursuant to this
14 section shall claim the credit on forms and in a manner
15 required by the department.

16 J. The tax credit provided by this section shall be
17 included in the tax expenditure budget pursuant to Section
18 7-1-84 NMSA 1978, including the annual aggregate cost of the
19 tax credit.

20 K. As used in this section:

21 (1) "agricultural biomass" means wet manure
22 meeting specifications established by the energy, minerals and
23 natural resources department from either a dairy or feedlot
24 commercial operation;

25 (2) "biocrude" means a nonfossil form of

1 energy that can be transported and refined using existing
2 petroleum refining facilities and that is made from
3 biologically derived feedstocks and other agricultural biomass;

4 (3) "feedlot" means an operation that fattens
5 livestock for market; and

6 (4) "dairy" means a facility that raises
7 livestock for milk production."

8 SECTION 2. Section 7-2A-26 NMSA 1978 (being Laws 2010,
9 Chapter 84, Section 2, as amended) is amended to read:

10 "7-2A-26. AGRICULTURAL BIOMASS CORPORATE INCOME TAX
11 CREDIT.--

12 A. A taxpayer that files a New Mexico corporate
13 income tax return for a taxable year ending prior to January 1,
14 2030 for a dairy or feedlot owned by the taxpayer may claim
15 against the taxpayer's corporate income and franchise tax
16 liability, and the department may allow, a tax credit equal to
17 [~~five dollars (\$5.00)~~] ten dollars (\$10.00) per wet ton of
18 agricultural biomass transported from the taxpayer's dairy or
19 feedlot to a facility that uses agricultural biomass to
20 generate electricity or make biocrude or other liquid or
21 gaseous fuel for commercial use. The credit provided in this
22 section may be referred to as the "agricultural biomass
23 corporate income tax credit".

24 B. Subject to the limitations of Subsection C of
25 this section, a taxpayer shall apply for certification of

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1 eligibility for the agricultural biomass corporate income tax
2 credit from the energy, minerals and natural resources
3 department on forms and in the manner prescribed by that
4 department. Completed applications shall be considered in the
5 order received. A dated certificate of eligibility shall be
6 issued to the taxpayer providing the amount of the agricultural
7 biomass corporate income tax credit for which the taxpayer is
8 eligible and the taxable year in which the credit may be
9 claimed. The energy, minerals and natural resources department
10 shall adopt rules establishing procedures to provide
11 certification of transportation of agricultural biomass to a
12 qualified facility that uses agricultural biomass to generate
13 electricity or make biocrude or other liquid or gaseous fuel
14 for commercial use for purposes of obtaining an agricultural
15 biomass corporate income tax credit.

16 C. The aggregate amount of agricultural biomass
17 income tax credits and agricultural biomass corporate income
18 tax credits that may be certified is five million dollars
19 (\$5,000,000) per calendar year, and applications for
20 certification received after this limitation shall not be
21 approved. Any remaining credits that remain unused in a
22 taxable year may be available for certification for a maximum
23 of four consecutive taxable years until the credits are fully
24 utilized. The energy, minerals and natural resources
25 department shall provide the department appropriate information

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1 for all certificates of eligibility in a secure manner on
2 regular intervals agreed upon by both departments.

3 D. Any portion of the agricultural biomass
4 corporate income tax credit that exceeds a taxpayer's corporate
5 income tax liability in the taxable year in which the credit is
6 being claimed may be carried forward for up to three
7 consecutive taxable years. A certificate of eligibility for an
8 agricultural biomass corporate income tax credit may be sold,
9 exchanged or otherwise transferred to another taxpayer for the
10 full value of the credit. The parties to such a transaction
11 shall notify the department of the sale, exchange or transfer
12 within ten days of the sale, exchange or transfer.

13 E. A taxpayer that claims an agricultural biomass
14 corporate income tax credit shall not also claim an
15 agricultural biomass income tax credit for transportation of
16 the same agricultural biomass on which the claim for that
17 agricultural biomass income tax credit is based.

18 F. A taxpayer allowed a tax credit pursuant to this
19 section shall claim the credit on forms and in a manner
20 required by the department.

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

25 H. As used in this section:

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1 (1) "agricultural biomass" means wet manure
2 meeting specifications established by the energy, minerals and
3 natural resources department from either a dairy or feedlot
4 commercial operation;

5 (2) "biocrude" means a nonfossil form of
6 energy that can be transported and refined using existing
7 petroleum refining facilities and that is made from
8 biologically derived feedstocks and other agricultural biomass;

9 (3) "feedlot" means an operation that fattens
10 livestock for market; and

11 (4) "dairy" means a facility that raises
12 livestock for milk production."

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