

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 382

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO TAXATION; AMENDING THE ALTERNATIVE ENERGY PRODUCT
MANUFACTURERS TAX CREDIT ACT TO INCLUDE A PRODUCT DIRECTLY
SECRETED BY A SINGLE CELL PHOTOSYNTHETIC ORGANISM AS AN
ELIGIBLE ALTERNATIVE ENERGY PRODUCT.

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

SECTION 1. Section 7-9J-2 NMSA 1978 (being Laws 2007,
Chapter 204, Section 12) is amended to read:

"7-9J-2. DEFINITIONS.--As used in the Alternative Energy
Product Manufacturers Tax Credit Act:

A. "alternative energy product" means an
alternative energy vehicle, fuel cell system, renewable energy
system or any component of an alternative energy vehicle, fuel
cell system or renewable energy system [~~or~~]; components for
integrated gasification combined cycle coal facilities and

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 equipment related to the sequestration of carbon from
2 integrated gasification combined cycle plants; or a product
3 directly secreted by a single cell photosynthetic organism;

4 B. "alternative energy vehicle" means a motor
5 vehicle manufactured by an original equipment manufacturer that
6 fully warrants and certifies that the motor vehicle meets the
7 federal motor vehicle safety standards and is designed to be
8 propelled in whole or in part by electricity; "alternative
9 energy vehicle" includes a gasoline-electric hybrid motor
10 vehicle exempt from the motor vehicle excise tax pursuant to
11 Subsection [F] G of Section 7-14-6 NMSA 1978;

12 C. "component" means a part, assembly of parts,
13 material, ingredient or supply that is incorporated directly
14 into an end product;

15 D. "department" means the taxation and revenue
16 department, the secretary of taxation and revenue or an
17 employee of the department exercising authority lawfully
18 delegated to that employee by the secretary;

19 E. "fuel cell system" means a system that converts
20 hydrogen, natural gas or waste gas to electricity without
21 combustion, including:

22 (1) a fuel cell or a system used to generate
23 or reform hydrogen for use in a fuel cell; or

24 (2) a system used to generate or reform
25 hydrogen for use in a fuel cell, including:

.184727.1

underscored material = new
[bracketed material] = delete

1 (a) electrolyzers that use renewable
2 energy; and

3 (b) reformers that use natural gas as
4 the feedstock;

5 F. "manufacturing" means combining or processing
6 components or materials to increase their value for sale in the
7 ordinary course of business, but "manufacturing" does not
8 include construction, farming, power generation or processing
9 natural resources;

10 G. "manufacturing equipment" means an essential
11 machine, mechanism or tool or a component of an essential
12 machine, mechanism or tool used directly and exclusively in a
13 taxpayer's manufacturing operation and that is subject to
14 depreciation pursuant to the Internal Revenue Code of 1986 by
15 the taxpayer carrying on the manufacturing; provided that
16 "manufacturing equipment" does not include a vehicle that
17 leaves the site of a manufacturing operation for the purpose of
18 transporting persons or property, including property for which
19 the taxpayer claims a credit pursuant to Section 7-9-79 NMSA
20 1978;

21 H. "manufacturing operation" means a plant
22 employing personnel to perform production tasks, in conjunction
23 with manufacturing equipment not previously existing at the
24 site, to produce alternative energy products;

25 I. "modified combined tax liability" means the

.184727.1

underscoring material = new
~~[bracketed material] = delete~~

1 total liability for the reporting period for the gross receipts
2 tax imposed by Section 7-9-4 NMSA 1978 together with any tax
3 collected at the same time and in the same manner as that gross
4 receipts tax, such as the compensating tax, the withholding
5 tax, the interstate telecommunications gross receipts tax, the
6 surcharge imposed by Section 63-9D-5 NMSA 1978 and the
7 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the
8 amount of any credit other than the alternative energy product
9 manufacturers tax credit applied against any or all of those
10 taxes or surcharges; provided that "modified combined tax
11 liability" excludes all amounts collected with respect to local
12 option gross receipts taxes;

13 J. "pass-through entity" means a business
14 association other than:

15 (1) a sole proprietorship;
16 (2) an estate or trust;
17 (3) a corporation, limited liability company,
18 partnership or other entity that is not a sole proprietorship
19 taxed as a corporation for federal income tax purposes for the
20 taxable year; or

21 (4) a partnership that is organized as an
22 investment partnership in which the partner's income is derived
23 solely from interest, dividends and sales of securities;

24 K. "qualified expenditure" means an expenditure for
25 the purchase of manufacturing equipment made after July 1, 2006

.184727.1

underscored material = new
[bracketed material] = delete

1 by a taxpayer approved by the department;

2 L. "renewable energy" means energy from solar heat,
3 solar light, wind, geothermal energy, landfill gas or biomass
4 either singly or in combination that produces low or zero
5 emissions and has substantial long-term production potential;

6 M. "renewable energy system" means a system using
7 only renewable energy to produce hydrogen or to generate
8 electricity, including related cogeneration systems that create
9 mechanical energy or that produce heat or steam for space or
10 water heating and agricultural or small industrial processes
11 and includes a:

- 12 (1) photovoltaic energy system;
- 13 (2) solar-thermal energy system;
- 14 (3) biomass energy system;
- 15 (4) wind energy system;
- 16 (5) hydrogen production system; or
- 17 (6) battery cell energy system; and

18 N. "taxpayer" means a person that files a New
19 Mexico corporate income tax return, including a shareholder,
20 member, partner or other owner of a pass-through entity, ~~[who]~~
21 that is liable for payment of a tax or to whom an assessment
22 has been made if the assessment remains unabated or the amount
23 thereof has not been paid."