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HOUSE BILL 616

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO TAXATION; PROVIDING FOR ALTERNATIVE FUEL VEHICLE
INCOME AND CORPORATE INCOME TAX CREDITS; PROVIDING FOR
ALTERNATIVE FUELING STATION INCOME AND CORPORATE INCOME TAX
CREDITS.

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] ALTERNATIVE FUEL VEHICLE INCOME TAX
CREDIT.--

A. A taxpayer who files an individual New Mexico
income tax return, who is not a dependent of another individual
and who, on or after July 1, 2013 and prior to July 1, 2016,
purchases an alternative fuel vehicle or qualified conversion
equipment may claim a credit in an amount not to exceed fifty

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1 percent of the cost basis of the alternative fuel vehicle or of
2 the purchase price of the qualified conversion equipment. The
3 credit provided in this section may be referred to as the
4 "alternative fuel vehicle income tax credit".

5 B. The purpose of the alternative fuel vehicle
6 income tax credit is to encourage mainstream transition to the
7 use of alternative fuels in motor vehicles and reduce the use
8 of gasoline or diesel fuel.

9 C. A taxpayer may claim the alternative fuel
10 vehicle income tax credit in the taxable year in which the
11 taxpayer purchases the alternative fuel vehicle or qualified
12 conversion equipment. The taxpayer shall claim the credit
13 within one year following the end of the calendar year in which
14 the taxpayer purchased the alternative fuel vehicle or
15 qualified conversion equipment.

16 D. That portion of the alternative fuel vehicle
17 income tax credit approved by the department that exceeds a
18 taxpayer's income tax liability in the taxable year in which
19 the credit is claimed shall not be refunded to the taxpayer.
20 The credit may be carried forward for three consecutive years.
21 The credit shall not be transferred to another taxpayer.

22 E. A husband and wife filing separate returns for a
23 taxable year for which they could have filed a joint return may
24 each claim only one-half of the alternative fuel vehicle income
25 tax credit that would have been claimed on a joint return.

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1 F. A taxpayer who otherwise qualifies and claims an
2 alternative fuel vehicle income tax credit in New Mexico that
3 may be claimed by a partnership or limited liability company of
4 which the taxpayer is a member may claim a credit only in the
5 proportion to the taxpayer's interest in the partnership or
6 limited liability company. The total credit claimed by all
7 members of the partnership or limited liability company shall
8 not exceed the allowable credit pursuant to Subsection A of
9 this section.

10 G. The taxpayer shall submit an application to the
11 energy, minerals and natural resources department that
12 identifies the property that qualifies the taxpayer for the
13 alternative fuel vehicle income tax credit by vehicle
14 identification number, serial number or other identification as
15 determined by the energy, minerals and natural resources
16 department, the purchase price and any additional information
17 that the energy, minerals and natural resources department may
18 require to determine the eligibility of the taxpayer for the
19 credit.

20 H. The energy, minerals and natural resources
21 department shall adopt rules establishing procedures to certify
22 a taxpayer for the purposes of obtaining an alternative fuel
23 vehicle income tax credit. The rules shall ensure that a
24 taxpayer claims the credit in an amount based on the cost basis
25 or purchase price and that the credit is given only once per

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1 alternative fuel vehicle or qualified conversion equipment.
2 The energy, minerals and natural resources department shall
3 issue a dated certificate of eligibility containing the
4 taxpayer's information, the amount of alternative fuel vehicle
5 income tax credit for which the taxpayer is eligible, the
6 vehicle identification number or other number as applicable and
7 any other information required by the taxation and revenue
8 department. All certificates of eligibility issued pursuant to
9 this subsection shall be sequentially numbered, and an account
10 of all certificates issued or destroyed shall be maintained by
11 the energy, minerals and natural resources department. The
12 taxation and revenue department shall audit the records of the
13 alternative fuel vehicle income tax credit maintained by the
14 energy, minerals and natural resources department on a periodic
15 basis to ensure effective administration of the credit and
16 compliance with the Tax Administration Act and with this
17 section.

18 I. To claim an alternative fuel vehicle income tax
19 credit, the taxpayer shall provide to the taxation and revenue
20 department the certificate of eligibility issued by the energy,
21 minerals and natural resources department pursuant to this
22 section to the taxpayer for the taxable year in which the
23 alternative fuel vehicle income tax credit is claimed.

24 J. The taxation and revenue department shall
25 compile an annual report that includes the number of taxpayers

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1 approved by the department to receive an alternative fuel
2 vehicle income tax credit. Notwithstanding any other section
3 of law to the contrary, the department may disclose the number
4 of applicants for the credit, the amount of each credit
5 approved, the number of vehicles purchased or converted, the
6 annual aggregate amount of credits allowed and information to
7 aid in evaluating the effectiveness of the alternative fuel
8 vehicle income tax credit to the interim revenue stabilization
9 and tax policy committee.

10 K. An appropriate legislative committee shall
11 review the effectiveness of the alternative fuel vehicle income
12 tax credit in 2015.

13 L. As used in this section:

14 (1) "alternative fuel vehicle" means a motor
15 vehicle originally equipped so that the motor vehicle may be
16 propelled by electricity, a hydrogen fuel cell, compressed
17 natural gas, liquefied natural gas or liquefied petroleum gas;

18 (2) "cost basis" means:

19 (a) the portion of the purchase price of
20 an alternative fuel vehicle that is attributable to the
21 storage, delivery, combustion and exhaust systems of
22 electricity; a hydrogen fuel cell; compressed natural gas;
23 liquefied natural gas; or liquefied petroleum gas; provided
24 that the cost basis for an alternative fuel vehicle that is
25 propelled entirely by electricity shall be the entire purchase

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1 price; or

2 (b) if the taxpayer is unable or elects
3 not to determine the exact portion of the purchase price
4 pursuant to Subparagraph (a) of this paragraph, the lesser of:
5 1) twenty percent of the purchase price; or 2) three thousand
6 dollars (\$3,000);

7 (3) "motor vehicle" means a vehicle originally
8 designed by the manufacturer to operate lawfully and
9 principally on streets and highways; and

10 (4) "qualified conversion equipment" means new
11 and not previously used equipment installed to modify a motor
12 vehicle propelled by gasoline or diesel fuel so that the motor
13 vehicle may be propelled by electricity, a hydrogen fuel cell,
14 compressed natural gas, liquefied natural gas or liquefied
15 petroleum gas."

16 SECTION 2. A new section of the Income Tax Act is enacted
17 to read:

18 "[NEW MATERIAL] ALTERNATIVE FUELING STATION INCOME TAX
19 CREDIT.--

20 A. A taxpayer who files an individual New Mexico
21 income tax return, who is not a dependent of another individual
22 and who, on or after July 1, 2013 and prior to July 1, 2016,
23 makes an investment in alternative fueling infrastructure may
24 claim a credit in an amount provided pursuant to Subsection B
25 of this section. The credit provided in this section may be

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1 referred to as the "alternative fueling station income tax
2 credit".

3 B. A taxpayer may claim a credit for a:

4 (1) residential alternative fueling station in
5 an amount equal to the lesser of:

6 (a) fifty percent of the cost to
7 purchase and install the residential alternative fueling
8 station; or

9 (b) two thousand five hundred dollars
10 (\$2,500); and

11 (2) commercial alternative fueling station in
12 an amount equal to seventy-five percent of the cost to purchase
13 and install a commercial alternative fueling station.

14 C. The purpose of the alternative fueling station
15 income tax credit is to encourage mainstream transition to the
16 use of alternative fuels in motor vehicles and reduce the use
17 of gasoline or diesel fuel.

18 D. A taxpayer may claim the alternative fueling
19 station income tax credit in the taxable year in which the
20 taxpayer installs a residential alternative fueling station or
21 commercial alternative fueling station. The taxpayer shall
22 claim the credit within one year following the end of the
23 calendar year in which the taxpayer installed the alternative
24 fueling station.

25 E. That portion of the alternative fueling station

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1 income tax credit approved by the department that exceeds a
2 taxpayer's income tax liability in the taxable year in which
3 the credit is claimed shall not be refunded to the taxpayer.
4 The credit may be carried forward for three consecutive years.
5 The credit shall not be transferred to another taxpayer.

6 F. A husband and wife filing separate returns for a
7 taxable year for which they could have filed a joint return may
8 each claim only one-half of the alternative fueling station
9 income tax credit that would have been claimed on a joint
10 return.

11 G. A taxpayer who otherwise qualifies and claims an
12 alternative fueling station income tax credit in New Mexico
13 that may be claimed by a partnership or limited liability
14 company of which the taxpayer is a member may claim a credit
15 only in proportion to the taxpayer's interest in the
16 partnership or limited liability company. The total credit
17 claimed by all members of the partnership or limited liability
18 company shall not exceed the allowable credit pursuant to
19 Subsection B of this section.

20 H. The taxpayer shall submit an application to the
21 energy, minerals and natural resources department that
22 identifies the property that qualifies the taxpayer for the
23 alternative fueling station income tax credit by serial number
24 or other identification as determined by the energy, minerals
25 and natural resources department, the cost of installation and

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1 any additional information that the energy, minerals and
2 natural resources department may require to determine the
3 eligibility of the taxpayer for the credit.

4 I. The energy, minerals and natural resources
5 department shall adopt rules establishing procedures to certify
6 a taxpayer for the purposes of obtaining an alternative fueling
7 station income tax credit. The rules shall ensure that a
8 taxpayer claims the credit in an amount based on the total cost
9 to purchase and install an alternative fueling station, that
10 the credit is given only once per station or for equipment of
11 the station. The energy, minerals and natural resources
12 department shall issue a dated certificate of eligibility
13 containing the taxpayer's information, the amount of
14 alternative fueling station income tax credit for which the
15 taxpayer is eligible, the serial number or identification as
16 applicable and any other information required by the taxation
17 and revenue department. All certificates of eligibility issued
18 pursuant to this subsection shall be sequentially numbered, and
19 an account of all certificates issued or destroyed shall be
20 maintained by the energy, minerals and natural resources
21 department. The taxation and revenue department shall audit
22 the records of the alternative fueling station income tax
23 credit maintained by the energy, minerals and natural resources
24 department on a periodic basis to ensure effective
25 administration of the credit and compliance with the Tax

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1 Administration Act and with this section.

2 J. To claim an alternative fueling station income
3 tax credit, the taxpayer shall provide to the taxation and
4 revenue department the certificate of eligibility issued by the
5 energy, minerals and natural resources department pursuant to
6 this section to the taxpayer for the taxable year in which the
7 alternative fueling station income tax credit is claimed.

8 K. The taxation and revenue department shall
9 compile an annual report that includes the number of taxpayers
10 approved by the department to receive an alternative fueling
11 station income tax credit. Notwithstanding any other section
12 of law to the contrary, the department may disclose the number
13 of applicants for the credit, the amount of each credit
14 approved, the number of alternative fueling stations installed,
15 the annual aggregate amount of credits allowed and information
16 to aid in evaluating the effectiveness of the alternative
17 fueling station income tax credit to the interim revenue
18 stabilization and tax policy committee.

19 L. An appropriate legislative committee shall
20 review the effectiveness of the alternative fueling station
21 income tax credit in 2015.

22 M. As used in this section:

23 (1) "commercial alternative fueling station"
24 means tangible property that is new, not previously installed
25 or used to fuel or charge a motor vehicle and is:

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1 (a) directly related to and used
2 exclusively for the storage or delivery of compressed natural
3 gas, liquified natural gas, liquified petroleum gas or hydrogen
4 to be loaded into the fuel tank of a motor vehicle propelled by
5 that fuel and that has at least one metered-for-fee public
6 access refueling system; or

7 (b) a metered-for-fee public access
8 recharging system for a motor vehicle propelled in whole or in
9 part by electricity; and

10 (2) "residential alternative fueling station"
11 means tangible property that is new, not previously installed
12 or used to fuel a motor vehicle and is directly related to the
13 compression and delivery of natural gas from the taxpayer's
14 private residence into the fuel tank of a motor vehicle
15 propelled by compressed natural gas."

16 SECTION 3. A new section of the Corporate Income and
17 Franchise Tax Act is enacted to read:

18 "[NEW MATERIAL] ALTERNATIVE FUEL VEHICLE CORPORATE INCOME
19 TAX CREDIT.--

20 A. A taxpayer that files a New Mexico corporate
21 income tax return and that, on or after July 1, 2013 and prior
22 to July 1, 2016, purchases an alternative fuel vehicle or
23 qualified conversion equipment may claim a credit in an amount
24 not to exceed fifty percent of the cost basis of the
25 alternative fuel vehicle or of the purchase price of the

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1 qualified conversion equipment. The credit provided in this
2 section may be referred to as the "alternative fuel vehicle
3 corporate income tax credit".

4 B. The purpose of the alternative fuel vehicle
5 corporate income tax credit is to encourage mainstream
6 transition to the use of alternative fuels in motor vehicles
7 and reduce the use of gasoline or diesel fuel.

8 C. A taxpayer may claim the alternative fuel
9 vehicle corporate income tax credit in the taxable year in
10 which the taxpayer purchases the alternative fuel vehicle or
11 qualified conversion equipment. The taxpayer shall claim the
12 credit within one year following the end of the calendar year
13 in which the taxpayer purchased the alternative fuel vehicle or
14 qualified conversion equipment.

15 D. That portion of the alternative fuel vehicle
16 corporate income tax credit approved by the department that
17 exceeds a taxpayer's corporate income tax liability in the
18 taxable year in which the credit is claimed shall not be
19 refunded to the taxpayer. The credit may be carried forward
20 for three consecutive years. The credit shall not be
21 transferred to another taxpayer.

22 E. The taxpayer shall submit an application to the
23 energy, minerals and natural resources department that
24 identifies the property that qualifies the taxpayer for the
25 alternative fuel vehicle corporate income tax credit by vehicle

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1 identification number, serial number or other identification as
2 determined by the energy, minerals and natural resources
3 department, the purchase price and any additional information
4 that the energy, minerals and natural resources department may
5 require to determine the eligibility of the taxpayer for the
6 credit.

7 F. The energy, minerals and natural resources
8 department shall adopt rules establishing procedures to certify
9 a taxpayer for the purposes of obtaining an alternative fuel
10 vehicle corporate income tax credit. The rules shall ensure
11 that a taxpayer claims the credit in an amount based on the
12 cost basis or purchase price and that the credit is given only
13 once per alternative fuel vehicle or qualified conversion
14 equipment. The energy, minerals and natural resources
15 department shall issue a dated certificate of eligibility
16 containing the taxpayer's information, the amount of
17 alternative fuel vehicle income tax credit for which the
18 taxpayer is eligible, the vehicle identification number or
19 other number as applicable and any other information required
20 by the taxation and revenue department. All certificates of
21 eligibility issued pursuant to this subsection shall be
22 sequentially numbered, and an account of all certificates
23 issued or destroyed shall be maintained by the energy, minerals
24 and natural resources department. The taxation and revenue
25 department shall audit the records of the alternative fuel

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1 vehicle corporate income tax credit maintained by the energy,
2 minerals and natural resources department on a periodic basis
3 to ensure effective administration of the credit and compliance
4 with the Tax Administration Act and with this section.

5 G. To claim an alternative fuel vehicle corporate
6 income tax credit, the taxpayer shall provide to the taxation
7 and revenue department the certificate of eligibility issued by
8 the energy, minerals and natural resources department pursuant
9 to this section to the taxpayer for the taxable year in which
10 the alternative fuel vehicle corporate income tax credit is
11 claimed.

12 H. The taxation and revenue department shall
13 compile an annual report that includes the number of taxpayers
14 approved by the department to receive an alternative fuel
15 vehicle corporate income tax credit. Notwithstanding any other
16 section of law to the contrary, the department may disclose the
17 number of applicants for the credit, the amount of each credit
18 approved, the number of vehicles purchased or converted, the
19 annual aggregate amount of credits allowed and information to
20 aid in evaluating the effectiveness of the alternative fuel
21 vehicle corporate income tax credit to the interim revenue
22 stabilization and tax policy committee.

23 I. An appropriate legislative committee shall
24 review the effectiveness of the alternative fuel vehicle
25 corporate income tax credit in 2015.

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J. As used in this section:

(1) "alternative fuel vehicle" means a motor vehicle originally equipped so that the motor vehicle may be propelled by electricity, a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas;

(2) "cost basis" means:

(a) the portion of the purchase price of an alternative fuel vehicle that is attributable to the storage, delivery, combustion and exhaust systems of electricity; a hydrogen fuel cell; compressed natural gas; liquefied natural gas; or liquefied petroleum gas; provided that the cost basis for an alternative fuel vehicle that is propelled entirely by electricity shall be the entire purchase price; or

(b) if the taxpayer is unable or elects not to determine the exact portion of the purchase price pursuant to Subparagraph (a) of this paragraph, the lesser of:
1) twenty percent of the purchase price; or 2) three thousand dollars (\$3,000);

(3) "motor vehicle" means a vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways; and

(4) "qualified conversion equipment" means new and not previously used equipment installed to modify a motor vehicle propelled by gasoline or diesel fuel so that the motor

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1 vehicle may be propelled by electricity, a hydrogen fuel cell,
2 compressed natural gas, liquefied natural gas or liquefied
3 petroleum gas."

4 SECTION 4. A new section of the Corporate Income and
5 Franchise Tax Act is enacted to read:

6 "[NEW MATERIAL] ALTERNATIVE FUELING STATION CORPORATE
7 INCOME TAX CREDIT.--

8 A. A taxpayer that files a New Mexico corporate
9 income tax return and that, on or after July 1, 2013 and prior
10 to July 1, 2016, makes an investment in alternative fueling
11 infrastructure may claim a credit in an amount provided
12 pursuant to Subsection B of this section. The credit provided
13 in this section may be referred to as the "alternative fueling
14 station corporate income tax credit".

15 B. A taxpayer may claim a credit for a commercial
16 alternative fueling station in an amount equal to seventy-five
17 percent of the cost to purchase and install the commercial
18 alternative fueling station.

19 C. The purpose of the alternative fueling station
20 corporate income tax credit is to encourage mainstream
21 transition to the use of alternative fuels in motor vehicles
22 and reduce the use of gasoline or diesel fuel.

23 D. A taxpayer may claim the alternative fueling
24 station corporate income tax credit in the taxable year in
25 which the taxpayer installs a commercial alternative fueling

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1 station. The taxpayer shall claim the credit within one year
2 following the end of the calendar year in which the taxpayer
3 installed the commercial alternative fueling station.

4 E. That portion of the alternative fueling station
5 corporate income tax credit approved by the department that
6 exceeds a taxpayer's corporate income tax liability in the
7 taxable year in which the credit is claimed shall not be
8 refunded to the taxpayer. The credit may be carried forward
9 for three consecutive years. The credit shall not be
10 transferred to another taxpayer.

11 F. The taxpayer shall submit an application to the
12 energy, minerals and natural resources department that
13 identifies the property that qualifies the taxpayer for the
14 alternative fueling station corporate income tax credit by
15 serial number or other identification as determined by the
16 energy, minerals and natural resources department, the cost of
17 installation and any additional information that the energy,
18 minerals and natural resources department may require to
19 determine the eligibility of the taxpayer for the credit.

20 G. The energy, minerals and natural resources
21 department shall adopt rules establishing procedures to certify
22 a taxpayer for the purposes of obtaining an alternative fueling
23 station corporate income tax credit. The rules shall ensure
24 that a taxpayer claims the credit in an amount based on the
25 total cost to purchase and install a commercial alternative

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1 fueling station and that the credit is given only once per
2 station or for equipment of the station. The energy, minerals
3 and natural resources department shall issue a dated
4 certificate of eligibility containing the taxpayer's
5 information, the amount of alternative fueling station
6 corporate income tax credit for which the taxpayer is eligible,
7 the property serial number or identification as applicable and
8 any other information required by the taxation and revenue
9 department. All certificates of eligibility issued pursuant to
10 this subsection shall be sequentially numbered, and an account
11 of all certificates issued or destroyed shall be maintained by
12 the energy, minerals and natural resources department. The
13 taxation and revenue department shall audit the records of the
14 alternative fueling station corporate income tax credit
15 maintained by the energy, minerals and natural resources
16 department on a periodic basis to ensure effective
17 administration of the credit and compliance with the Tax
18 Administration Act and with this section.

19 H. To claim an alternative fueling station
20 corporate income tax credit, the taxpayer shall provide to the
21 taxation and revenue department the certificate of eligibility
22 issued by the energy, minerals and natural resources department
23 pursuant to this section to the taxpayer for the taxable year
24 in which the alternative fueling station corporate income tax
25 credit is claimed.

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1 I. The taxation and revenue department shall
2 compile an annual report that includes the number of taxpayers
3 approved by the department to receive an commercial alternative
4 fueling station corporate income tax credit. Notwithstanding
5 any other section of law to the contrary, the department may
6 disclose the number of applicants for the credit, the amount of
7 each credit approved, the number of alternative fueling
8 stations installed, the annual aggregate amount of credits
9 allowed and information to aid in evaluating the effectiveness
10 of the alternative fueling station corporate income tax credit
11 to the interim revenue stabilization and tax policy committee.

12 J. An appropriate legislative committee shall
13 review the effectiveness of the alternative fuel vehicle
14 corporate income tax credit in 2015.

15 K. As used in this section, "commercial alternative
16 fueling station" means tangible property that is new, not
17 previously installed or used to fuel or charge a motor vehicle
18 and is:

19 (1) directly related to and used exclusively
20 for the storage or delivery of compressed natural gas,
21 liquified natural gas, liquified petroleum gas or hydrogen to
22 be loaded into the fuel tank of a motor vehicle propelled by
23 that fuel and that has at least one metered-for-fee public
24 access refueling system; or

25 (2) a metered-for-fee public access recharging

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1 system for a motor vehicle propelled in whole or in part by
2 electricity."

3 SECTION 5. APPLICABILITY.--The provisions of this act
4 apply to taxable years beginning on or after January 1, 2013.

5 SECTION 6. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2013.