

1 SENATE BILL 264

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING A MOTOR VEHICLE EXCISE TAX
12 EXEMPTION FOR QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLES UNTIL
13 2018; DEFINING "QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLE" FOR
14 PURPOSES OF CERTAIN TAX ACTS; PROVIDING GROSS RECEIPTS TAX AND
15 COMPENSATING TAX EXEMPTIONS FOR QUALIFIED PLUG-IN ELECTRIC
16 DRIVE VEHICLES.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 7-9-22 NMSA 1978 (being Laws 1969,
20 Chapter 144, Section 15, as amended) is amended to read:

21 "7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--
22 Exempted from the gross receipts tax are the receipts from
23 selling vehicles on which a tax is imposed by the Motor Vehicle
24 Excise Tax Act, vehicles subject to registration under Section
25 66-3-16 NMSA 1978 and vehicles exempt from the motor vehicle

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1 excise tax pursuant to [~~Subsection~~] Subsections F and G of
2 Section 7-14-6 NMSA 1978."

3 SECTION 2. Section 7-9-23 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 16, as amended) is amended to read:

5 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES.--Exempted
6 from the compensating tax [~~is~~] are the use of vehicles on which
7 the tax imposed by the Motor Vehicle Excise Tax Act has been
8 paid, the use of vehicles subject to registration under Section
9 66-3-16 NMSA 1978 and the use of vehicles exempt from the motor
10 vehicle excise tax pursuant to [~~Subsection~~] Subsections F and G
11 of Section 7-14-6 NMSA 1978."

12 SECTION 3. Section 7-9J-1 NMSA 1978 (being Laws 2007,
13 Chapter 204, Section 11) is amended to read:

14 "7-9J-1. SHORT TITLE.--~~[Sections 11 through 18 of this~~
15 ~~act]~~ Chapter 7, Article 9J NMSA 1978 may be cited as the
16 "Alternative Energy Product Manufacturers Tax Credit Act"."

17 SECTION 4. Section 7-9J-2 NMSA 1978 (being Laws 2007,
18 Chapter 204, Section 12, as amended) is amended to read:

19 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy
20 Product Manufacturers Tax Credit Act:

21 A. "alternative energy product" means an
22 alternative energy vehicle, fuel cell system, renewable energy
23 system or any component of an alternative energy vehicle, fuel
24 cell system or renewable energy system; components for
25 integrated gasification combined cycle coal facilities and

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1 equipment related to the sequestration of carbon from
2 integrated gasification combined cycle plants; or, beginning in
3 taxable year 2011 and ending in taxable year 2019, a product
4 extracted from or secreted by a single cell photosynthetic
5 organism;

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

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

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

22 E. "fuel cell system" means a system that converts
23 hydrogen, natural gas or waste gas to electricity without
24 combustion, including:

25 (1) a fuel cell or a system used to generate

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1 or reform hydrogen for use in a fuel cell; or

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

4 (a) electrolyzers that use renewable
5 energy; and

6 (b) reformers that use natural gas as
7 the feedstock;

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

13 G. "manufacturing equipment" means an essential
14 machine, mechanism or tool or a component of an essential
15 machine, mechanism or tool used directly and exclusively in a
16 taxpayer's manufacturing operation and that is subject to
17 depreciation pursuant to the Internal Revenue Code of 1986 by
18 the taxpayer carrying on the manufacturing; provided that
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 H. "manufacturing operation" means a plant
25 employing personnel to perform production tasks, in conjunction

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1 with manufacturing equipment not previously existing at the
2 site, to produce alternative energy products;

3 I. "modified combined tax liability" means the
4 total liability of the taxpayer for the reporting period for
5 the gross receipts tax imposed ~~[by]~~ pursuant to Section 7-9-4
6 NMSA 1978 ~~[together with any tax collected at the same time and~~
7 ~~in the same manner as that gross receipts tax, such as],~~ the
8 compensating tax imposed pursuant to Section 7-9-7 NMSA 1978
9 and the withholding tax ~~[the interstate telecommunications~~
10 ~~gross receipts tax, the surcharge imposed by Section 63-9D-5~~
11 ~~NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA~~
12 ~~1978, minus the amount of any credit other than the alternative~~
13 ~~energy product manufacturers tax credit applied against any or~~
14 ~~all of those taxes or surcharges]~~ imposed on wages pursuant to
15 Section 7-3-3 NMSA 1978, notwithstanding any distribution or
16 transfer pursuant to the Tax Administration Act with respect to
17 net receipts from those liabilities, minus the amount of a
18 credit or deduction other than the alternative energy product
19 manufacturers tax credit applied against those taxes; provided
20 that "modified combined tax liability" excludes ~~[all amounts~~
21 ~~collected with respect to]~~ any liability resulting from a local
22 option gross receipts ~~[taxes]~~ tax;

23 J. "pass-through entity" means a business
24 association other than:

- 25 (1) a sole proprietorship;

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

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

9 K. "qualified expenditure" means an expenditure
10 for the purchase of manufacturing equipment made after July 1,
11 2006 by a taxpayer approved by the department;

12 L. "qualified plug-in electric drive vehicle"
13 means a motor vehicle with four wheels that:

14 (1) is made by a manufacturer;

15 (2) is manufactured primarily for use on
16 public streets, roads or highways;

17 (3) has not been modified from the original
18 manufacturer specifications;

19 (4) is acquired for use or lease by a
20 consumer and is not for resale;

21 (5) is rated at not less than two thousand
22 two hundred pounds unloaded base weight and not more than
23 eight thousand five hundred pounds unloaded base weight;

24 (6) has a maximum speed capability of at
25 least sixty-five miles per hour; and

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1 (7) is propelled to a significant extent by
2 an electric motor that draws electricity from a battery that:

3 (a) has a capacity of not less than
4 four kilowatt-hours; and

5 (b) is capable of being recharged from
6 an external source of electricity;

7 [~~H.~~] M. "renewable energy" means energy from solar
8 heat, solar light, wind, geothermal energy, landfill gas or
9 biomass either singly or in combination that produces low or
10 zero emissions and has substantial long-term production
11 potential;

12 [~~M.~~] N. "renewable energy system" means a system
13 using only renewable energy to produce hydrogen or to generate
14 electricity, including related cogeneration systems that
15 create mechanical energy or that produce heat or steam for
16 space or water heating and agricultural or small industrial
17 processes and includes a:

- 18 (1) photovoltaic energy system;
- 19 (2) solar-thermal energy system;
- 20 (3) biomass energy system;
- 21 (4) wind energy system;
- 22 (5) hydrogen production system; or
- 23 (6) battery cell energy system; [~~and~~

24 [~~N.~~] O. "taxpayer" means a person, including a
25 shareholder, member, partner or other owner of a pass-through

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1 entity, that is liable for payment of a tax or to whom an
2 assessment has been made if the assessment remains unabated or
3 the amount thereof has not been paid; and

4 P. "unloaded base weight" means the weight of a
5 vehicle without passengers or cargo."

6 SECTION 5. Section 7-14-6 NMSA 1978 (being Laws 1988,
7 Chapter 73, Section 16, as amended) is amended to read:

8 "7-14-6. EXEMPTIONS FROM TAX.--

9 A. A person who acquires a vehicle out of state
10 thirty or more days before establishing a domicile in this
11 state is exempt from the tax if the vehicle was acquired for
12 personal use.

13 B. A person applying for a certificate of title
14 for a vehicle registered in another state is exempt from the
15 tax if the person has previously registered and titled the
16 vehicle in New Mexico and has owned the vehicle continuously
17 since that time.

18 C. A vehicle with a certificate of title owned by
19 this state or any political subdivision is exempt from the
20 tax.

21 D. A person is exempt from the tax if the person
22 has a disability at the time the person purchases a vehicle
23 and can prove to the motor vehicle division of the department
24 or its agent that modifications have been made to the vehicle
25 that are:

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- 1 (1) due to that person's disability; and
2 (2) necessary to enable that person to drive
3 that vehicle or be transported in that vehicle.

4 E. A person is exempt from the tax if the person
5 is a bona fide resident of New Mexico who served in the armed
6 forces of the United States and who suffered, while serving in
7 the armed forces or from a service-connected cause, the loss
8 or complete and total loss of use of:

9 (1) one or both legs at or above the ankle;
10 or

11 (2) one or both arms at or above the wrist.

12 F. A person who acquires a vehicle for subsequent
13 lease shall be exempt from the tax if:

14 (1) the person does not use the vehicle in
15 any manner other than holding it for lease or sale or leasing
16 or selling it in the ordinary course of business;

17 (2) the lease is for a term of more than six
18 months;

19 (3) the receipts from the subsequent lease
20 are subject to the gross receipts tax; and

21 (4) the vehicle does not have a gross
22 vehicle weight of over twenty-six thousand pounds.

23 G. From July 1, [2004] 2013 through June 30,
24 [2009] 2018, vehicles that are [~~gasoline-electric hybrid~~
25 ~~vehicles with a United States environmental protection agency~~

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1 ~~fuel economy rating of at least twenty-seven and one-half~~
2 ~~miles per gallon]~~ qualified plug-in electric drive vehicles
3 are eligible for a one-time exemption from the tax at the time
4 of the issuance of the original certificate of title for the
5 vehicle.

6 H. As used in this section:

7 (1) "qualified plug-in electric drive
8 vehicle" means a motor vehicle with four wheels that:

9 (a) is made by a manufacturer;

10 (b) is manufactured primarily for use
11 on public streets, roads or highways;

12 (c) has not been modified from the
13 original manufacturer specifications;

14 (d) is acquired for use or lease by a
15 consumer and is not for resale;

16 (e) is rated at not less than two
17 thousand two hundred pounds unloaded base weight and not more
18 than eight thousand five hundred pounds unloaded base weight;

19 (f) has a maximum speed capability of
20 at least sixty-five miles per hour; and

21 (g) is propelled to a significant
22 extent by an electric motor that draws electricity from a
23 battery that: 1) has a capacity of not less than four
24 kilowatt-hours; and 2) is capable of being recharged from an
25 external source of electricity; and

