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AN ACT

RELATING TO TAXATION; EXTENDING THE AGRICULTURAL BIOMASS
INCOME TAX CREDIT AND AGRICULTURAL BIOMASS CORPORATE INCOME
TAX CREDIT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
COMPILE AND PRESENT AN ANNUAL REPORT ON THE CREDITS.

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) 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 beginning on or after January 1, 2011 and ending
prior to January 1, 2030, may apply for, and the department
may allow, a tax credit equal to five dollars (\$5.00) per wet
ton of agricultural biomass transported from the taxpayer's
dairy or feedlot to a facility that uses agricultural biomass
to generate electricity or make biocrude or other liquid or
gaseous fuel for commercial use. The tax credit created in
this section may be referred to as the "agricultural biomass
income tax credit".

B. If the requirements of this section have been
complied with, the department shall issue to the taxpayer a
document granting an agricultural biomass income tax credit.
The document shall be numbered for identification and declare

1 its date of issuance and the amount of the tax credit allowed
2 pursuant to this section. The document may be submitted by
3 the taxpayer with that taxpayer's income tax return or may be
4 sold, exchanged or otherwise transferred to another taxpayer.
5 The parties to such a transaction shall notify the department
6 of the sale, exchange or transfer within ten days of the
7 sale, exchange or transfer.

8 C. Any portion of the agricultural biomass income
9 tax credit that remains unused in a taxable year may be
10 carried forward for a maximum of four consecutive taxable
11 years following the taxable year in which the credit
12 originates until fully expended.

13 D. A taxpayer who otherwise qualifies and claims
14 an agricultural biomass income tax credit with respect to a
15 dairy or feedlot owned by a partnership or other business
16 association of which the taxpayer is a member may claim the
17 credit only in proportion to that taxpayer's interest in the
18 partnership or business association. The total agricultural
19 biomass income tax credits claimed in the aggregate with
20 respect to the same dairy or feedlot by all members of the
21 partnership or business association shall not exceed the
22 amount of the credit that could have been claimed by a single
23 owner of the dairy or feedlot.

24 E. Married individuals who file separate returns
25 for a taxable year in which they could have filed a joint

1 return may each claim only one-half of the credit that would
2 have been allowed on a joint return.

3 F. The energy, minerals and natural resources
4 department shall adopt rules establishing procedures to
5 provide certification of transportation of agricultural
6 biomass to a qualified facility that uses agricultural
7 biomass to generate electricity or make biocrude or other
8 liquid or gaseous fuel for commercial use for purposes of
9 obtaining an agricultural biomass income tax credit. The
10 rules may be modified as determined necessary by the energy,
11 minerals and natural resources department to determine
12 accurate recording of the quantity of agricultural biomass
13 transported and used for the purpose allowable in this
14 section.

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

20 H. The department shall limit the annual combined
21 total of all agricultural biomass income tax credits and all
22 agricultural biomass corporate income tax credits allowed to
23 a maximum of five million dollars (\$5,000,000). Applications
24 for the credit shall be considered in the order received by
25 the department.

1 I. A taxpayer allowed a tax credit pursuant to
2 this section shall report the amount of the credit to the
3 department in a manner required by the department.

4 J. The department shall compile an annual report
5 on the agricultural biomass income tax credit that shall
6 include the number of taxpayers approved by the department to
7 receive the credit, the aggregate amount of credits approved
8 and any other information necessary to evaluate the credit.
9 The department shall present the report to the revenue
10 stabilization and tax policy committee and the legislative
11 finance committee with an analysis of the cost of the tax
12 credit.

13 K. As used in this section:

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

18 (2) "biocrude" means a nonfossil form of
19 energy that can be transported and refined using existing
20 petroleum refining facilities and that is made from
21 biologically derived feedstocks and other agricultural
22 biomass;

23 (3) "feedlot" means an operation that
24 fattens livestock for market; and

25 (4) "dairy" means a facility that raises

1 livestock for milk production."

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

4 "7-2A-26. AGRICULTURAL BIOMASS CORPORATE INCOME TAX
5 CREDIT.--

6 A. A taxpayer that files a New Mexico corporate
7 income tax return for a taxable year beginning on or after
8 January 1, 2011 and ending prior to January 1, 2030 for a
9 dairy or feedlot owned by the taxpayer may claim against the
10 taxpayer's corporate income and franchise tax liability, and
11 the department may allow, a tax credit equal to five dollars
12 (\$5.00) per wet ton of agricultural biomass transported from
13 the taxpayer's dairy or feedlot to a facility that uses
14 agricultural biomass to generate electricity or make biocrude
15 or other liquid or gaseous fuel for commercial use. The
16 credit provided in this section may be referred to as the
17 "agricultural biomass corporate income tax credit".

18 B. If the requirements of this section have been
19 complied with, the department shall issue to the taxpayer a
20 document granting an agricultural biomass corporate income
21 tax credit. The document shall be numbered for
22 identification and declare its date of issuance and the
23 amount of the tax credit allowed pursuant to this section.
24 The document may be submitted by the taxpayer with that
25 taxpayer's corporate income tax return or may be sold,

1 exchanged or otherwise transferred to another taxpayer. The
2 parties to such a transaction shall notify the department of
3 the sale, exchange or transfer within ten days of the sale,
4 exchange or transfer.

5 C. A portion of the agricultural biomass corporate
6 income tax credit that remains unused in a taxable year may
7 be carried forward for a maximum of four consecutive taxable
8 years following the taxable year in which the credit
9 originates until the credit is fully expended.

10 D. The energy, minerals and natural resources
11 department shall adopt rules establishing procedures to
12 provide certification of transportation of agricultural
13 biomass to a qualified facility that uses agricultural
14 biomass to generate electricity or make biocrude or other
15 liquid or gaseous fuel for commercial use for purposes of
16 obtaining an agricultural biomass corporate income tax
17 credit. The rules may be modified as determined necessary by
18 the energy, minerals and natural resources department to
19 determine accurate recording of the quantity of agricultural
20 biomass transported and used for the purpose allowable in
21 this section.

22 E. A taxpayer that claims an agricultural biomass
23 corporate income tax credit shall not also claim an
24 agricultural biomass income tax credit for transportation of
25 the same agricultural biomass on which the claim for that

1 agricultural biomass income tax credit is based.

2 F. The department shall limit the annual combined
3 total of all agricultural biomass income tax credits and all
4 agricultural biomass corporate income tax credits allowed to
5 a maximum of five million dollars (\$5,000,000). Applications
6 for the credit shall be considered in the order received by
7 the department.

8 G. A taxpayer allowed a tax credit pursuant to
9 this section shall report the amount of the credit to the
10 department in a manner required by the department.

11 H. The department shall compile an annual report
12 on the agricultural biomass corporate income tax credit that
13 shall include the number of taxpayers approved by the
14 department to receive the credit, the aggregate amount of
15 credits approved and any other information necessary to
16 evaluate the credit. The department shall present the report
17 to the revenue stabilization and tax policy committee and the
18 legislative finance committee with an analysis of the cost of
19 the tax credit.

20 I. As used in this section:

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

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

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

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