

HOUSE BILL

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING A MOTOR VEHICLE EXCISE TAX  
EXEMPTION FOR QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLES UNTIL  
2015; DEFINING "QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLE" FOR  
PURPOSES OF CERTAIN TAX ACTS; PROVIDING GROSS RECEIPTS TAX AND  
COMPENSATING TAX EXEMPTIONS FOR QUALIFIED PLUG-IN ELECTRIC  
DRIVE VEHICLES.

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

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

"7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--  
Exempted from the gross receipts tax are the receipts from  
selling vehicles on which a tax is imposed by the Motor Vehicle  
Excise Tax Act, vehicles subject to registration under Section  
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-2 NMSA 1978 (being Laws 2007,  
13 Chapter 204, Section 12, as amended) is amended to read:

14 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy  
15 Product Manufacturers Tax Credit Act:

16 A. "alternative energy product" means an  
17 alternative energy vehicle, fuel cell system, renewable energy  
18 system or any component of an alternative energy vehicle, fuel  
19 cell system or renewable energy system; components for  
20 integrated gasification combined cycle coal facilities and  
21 equipment related to the sequestration of carbon from  
22 integrated gasification combined cycle plants; or, beginning in  
23 taxable year 2011 and ending in taxable year 2019, a product  
24 extracted from or secreted by a single cell photosynthetic  
25 organism;

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

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

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

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

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

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

24                           (a) electrolyzers that use renewable  
25 energy; and

1 (b) reformers that use natural gas as  
2 the feedstock;

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

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

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

23 I. "modified combined tax liability" means the  
24 total liability of the taxpayer for the reporting period for  
25 the gross receipts tax imposed ~~[by]~~ pursuant to Section 7-9-4

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

18 J. "pass-through entity" means a business  
19 association other than:

- 20 (1) a sole proprietorship;  
21 (2) an estate or trust;  
22 (3) a corporation, limited liability company,  
23 partnership or other entity that is not a sole proprietorship  
24 taxed as a corporation for federal income tax purposes for the  
25 taxable year; or

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

4 K. "qualified expenditure" means an expenditure  
5 for the purchase of manufacturing equipment made after July 1,  
6 2006 by a taxpayer approved by the department;

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

9 (1) is made by a manufacturer;

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

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

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

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

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

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

23 (a) has a capacity of not less than  
24 four kilowatt-hours; and

25 (b) is capable of being recharged from

1 an external source of electricity;

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

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

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

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

24 P. "unloaded base weight" means the weight of a  
25 vehicle without passengers or cargo."

1           SECTION 4. Section 7-14-6 NMSA 1978 (being Laws 1988,  
2 Chapter 73, Section 16, as amended) is amended to read:

3           "7-14-6. EXEMPTIONS FROM TAX.--

4           A. A person who acquires a vehicle out of state  
5 thirty or more days before establishing a domicile in this  
6 state is exempt from the tax if the vehicle was acquired for  
7 personal use.

8           B. A person applying for a certificate of title  
9 for a vehicle registered in another state is exempt from the  
10 tax if the person has previously registered and titled the  
11 vehicle in New Mexico and has owned the vehicle continuously  
12 since that time.

13           C. A vehicle with a certificate of title owned by  
14 this state or any political subdivision is exempt from the  
15 tax.

16           D. A person is exempt from the tax if the person  
17 has a disability at the time the person purchases a vehicle  
18 and can prove to the motor vehicle division of the department  
19 or its agent that modifications have been made to the vehicle  
20 that are:

21                   (1) due to that person's disability; and

22                   (2) necessary to enable that person to drive  
23 that vehicle or be transported in that vehicle.

24           E. A person is exempt from the tax if the person  
25 is a bona fide resident of New Mexico who served in the armed

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1 forces of the United States and who suffered, while serving in  
2 the armed forces or from a service-connected cause, the loss  
3 or complete and total loss of use of:

4 (1) one or both legs at or above the ankle;  
5 or

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

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

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

12 (2) the lease is for a term of more than six  
13 months;

14 (3) the receipts from the subsequent lease  
15 are subject to the gross receipts tax; and

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

18 G. From July 1, [2004] 2011 through June 30,  
19 [2009] 2015, vehicles that are [~~gasoline-electric hybrid~~  
20 ~~vehicles with a United States environmental protection agency~~  
21 ~~fuel economy rating of at least twenty-seven and one-half~~  
22 ~~miles per gallon~~] qualified plug-in electric drive vehicles  
23 are eligible for a one-time exemption from the tax at the time  
24 of the issuance of the original certificate of title for the  
25 vehicle.

1                   H. As used in this section:

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

4                               (a) is made by a manufacturer;

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

7                               (c) has not been modified from the  
8 original manufacturer specifications;

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

11                              (e) is rated at not less than two  
12 thousand two hundred pounds unloaded base weight and not more  
13 than eight thousand five hundred pounds unloaded base weight;

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

16                              (g) is propelled to a significant  
17 extent by an electric motor that draws electricity from a  
18 battery that: 1) has a capacity of not less than four  
19 kilowatt-hours; and 2) is capable of being recharged from an  
20 external source of electricity; and

21                   (2) "unloaded base weight" means the weight  
22 of a vehicle without passengers or cargo."