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HOUSE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING A MOTOR VEHICLE EXCISE TAX  
EXEMPTION FOR QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLES UNTIL  
2014; DEFINING QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLE FOR  
PURPOSES OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT.

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  
excise tax pursuant to Subsection [F] G of Section 7-14-6 NMSA  
1978."

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

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

10           SECTION 3. Section 7-9J-2 NMSA 1978 (being Laws 2007,  
11 Chapter 204, Section 12) is amended to read:

12           "7-9J-2. DEFINITIONS.--As used in the Alternative Energy  
13 Product Manufacturers Tax Credit Act:

14           A. "alternative energy product" means an  
15 alternative energy vehicle, fuel cell system, renewable energy  
16 system or any component of an alternative energy vehicle, fuel  
17 cell system or renewable energy system or components for  
18 integrated gasification combined cycle coal facilities and  
19 equipment related to the sequestration of carbon from  
20 integrated gasification combined cycle plants;

21           B. "alternative energy vehicle" means a motor  
22 vehicle manufactured by an original equipment manufacturer that  
23 fully warrants and certifies that the motor vehicle meets the  
24 federal motor vehicle safety standards and is designed to be  
25 propelled in whole or in part by electricity; "alternative

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1 energy vehicle" includes a gasoline-electric hybrid motor  
2 vehicle [~~exempt from the motor vehicle excise tax pursuant to~~  
3 ~~Subsection F of Section 7-14-6 NMSA 1978~~] or a qualified plug-  
4 in electric drive vehicle;

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

8 D. "department" means the taxation and revenue  
9 department, the secretary of taxation and revenue or an  
10 employee of the department exercising authority lawfully  
11 delegated to that employee by the secretary;

12 E. "fuel cell system" means a system that converts  
13 hydrogen, natural gas or waste gas to electricity without  
14 combustion, including:

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

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

19 (a) electrolyzers that use renewable  
20 energy; and

21 (b) reformers that use natural gas as  
22 the feedstock;

23 F. "manufacturing" means combining or processing  
24 components or materials to increase their value for sale in the  
25 ordinary course of business, but "manufacturing" does not

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1 include construction, farming, power generation or processing  
2 natural resources;

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

14 H. "manufacturing operation" means a plant  
15 employing personnel to perform production tasks, in conjunction  
16 with manufacturing equipment not previously existing at the  
17 site, to produce alternative energy products;

18 I. "modified combined tax liability" means the  
19 total liability for the reporting period for the gross receipts  
20 tax imposed by Section 7-9-4 NMSA 1978 together with any tax  
21 collected at the same time and in the same manner as that gross  
22 receipts tax, such as the compensating tax, the withholding  
23 tax, the interstate telecommunications gross receipts tax, the  
24 surcharge imposed by Section 63-9D-5 NMSA 1978 and the  
25 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the

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1 amount of any credit other than the alternative energy product  
2 manufacturers tax credit applied against any or all of those  
3 taxes or surcharges; provided that "modified combined tax  
4 liability" excludes all amounts collected with respect to local  
5 option gross receipts taxes;

6 J. "pass-through entity" means a business  
7 association other than:

8 (1) a sole proprietorship;

9 (2) an estate or trust;

10 (3) a corporation, limited liability company,  
11 partnership or other entity that is not a sole proprietorship  
12 taxed as a corporation for federal income tax purposes for the  
13 taxable year; or

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

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

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

22 (1) is made by a manufacturer;

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

25 (3) has not been modified from the original

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1 manufacturer specifications;

2 (4) is acquired for use or lease by the  
3 taxpayer and not for resale;

4 (5) is rated at not more than eight thousand  
5 five hundred pounds unloaded gross vehicle weight;

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

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

10 (a) has a capacity of not less than four  
11 kilowatt-hours; and

12 (b) is capable of being recharged from  
13 an external source of electricity; and

14 (8) is acquired by the taxpayer on or after  
15 July 1, 2011 but before June 30, 2014;

16 ~~[E-]~~ M. "renewable energy" means energy from solar  
17 heat, solar light, wind, geothermal energy, landfill gas or  
18 biomass either singly or in combination that produces low or  
19 zero emissions and has substantial long-term production  
20 potential;

21 ~~[M-]~~ N. "renewable energy system" means a system  
22 using only renewable energy to produce hydrogen or to generate  
23 electricity, including related cogeneration systems that create  
24 mechanical energy or that produce heat or steam for space or  
25 water heating and agricultural or small industrial processes

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1 and includes a:

- 2 (1) photovoltaic energy system;
- 3 (2) solar-thermal energy system;
- 4 (3) biomass energy system;
- 5 (4) wind energy system;
- 6 (5) hydrogen production system; or
- 7 (6) battery cell energy system; and

8 [~~N-~~] 0. "taxpayer" means a person, including a  
9 shareholder, member, partner or other owner of a pass-through  
10 entity, who is liable for payment of a tax or to whom an  
11 assessment has been made if the assessment remains unabated or  
12 the amount thereof has not been paid."

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

15 "7-14-6. EXEMPTIONS FROM TAX.--

16 A. A person who acquires a vehicle out of state  
17 thirty or more days before establishing a domicile in this  
18 state is exempt from the tax if the vehicle was acquired for  
19 personal use.

20 B. A person applying for a certificate of title for  
21 a vehicle registered in another state is exempt from the tax if  
22 the person has previously registered and titled the vehicle in  
23 New Mexico and has owned the vehicle continuously since that  
24 time.

25 C. A vehicle with a certificate of title owned by

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1 this state or any political subdivision is exempt from the tax.

2 D. A person is exempt from the tax if the person  
3 has a disability at the time the person purchases a vehicle and  
4 can prove to the motor vehicle division of the department or  
5 its agent that modifications have been made to the vehicle that  
6 are:

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

10 E. A person is exempt from the tax if the person is  
11 a bona fide resident of New Mexico who served in the armed  
12 forces of the United States and who suffered, while serving in  
13 the armed forces or from a service-connected cause, the loss or  
14 complete and total loss of use of:

- 15 (1) one or both legs at or above the ankle; or  
16 (2) one or both arms at or above the wrist.

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

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

22 (2) the lease is for a term of more than six  
23 months;

24 (3) the receipts from the subsequent lease are  
25 subject to the gross receipts tax; and

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

G. From July 1, ~~[2004]~~ 2011 through June 30, ~~[2009]~~ 2014, vehicles that are ~~[gasoline-electric hybrid]~~ qualified plug-in electric drive vehicles ~~[with a United States environmental protection agency fuel economy rating of at least twenty-seven and one-half miles per gallon]~~ are eligible for a one-time exemption from the tax at the time of the issuance of the original certificate of title for the vehicle."

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.