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HOUSE BILL 146

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Anna M. Crook

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO TAXATION; EXTENDING THE RENEWABLE ENERGY PRODUCTION  
TAX CREDIT TO INCLUDE BIOMASS AS A QUALIFIED ENERGY RESOURCE;  
CHANGING ELIGIBILITY REQUIREMENTS FOR CERTIFICATION.

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

Section 1. Section 7-2A-19 NMSA 1978 (being Laws 2002,  
Chapter 59, Section 1) is amended to read:

"7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--  
LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

A. A taxpayer that owns a qualified energy  
generator certified by the energy, minerals and natural  
resources department is eligible for a tax credit in an amount  
equal to one cent (\$.01) per kilowatt-hour for the first four  
hundred thousand megawatt-hours of electricity produced by the  
qualified energy generator using a qualified energy resource in

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1 the taxable year. A taxpayer shall be eligible for the tax  
2 credit for ten consecutive years, beginning on the date the  
3 qualified energy generator begins producing electricity. The  
4 tax credit provided in this section may be referred to as the  
5 "renewable energy production tax credit".

6 B. As used in this section:

7 (1) "biomass" means agricultural or animal  
8 waste; thinnings from trees less than fifteen inches in  
9 diameter, slash and brush; lumbermill or sawmill residues; and  
10 salt cedar and other phreatophytes removed from watersheds or  
11 river basins;

12 [~~(1)~~] (2) "qualified energy generator" means a  
13 facility with at least twenty megawatts generating capacity  
14 located in New Mexico that produces electricity using a  
15 qualified energy resource and that sells that electricity to an  
16 unrelated person; and

17 [~~(2)~~] (3) "qualified energy resource" means a  
18 resource that generates electrical energy by means of a  
19 fluidized bed technology or similar low-emissions technology or  
20 a zero-emissions generation technology that has substantial  
21 long-term production potential and that uses only the following  
22 energy sources:

- 23 (a) solar light;  
24 (b) solar heat; [~~or~~]  
25 (c) wind; or

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(d) biomass.

C. A taxpayer may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the applicant is a qualified energy generator; provided that the department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified will not exceed ~~[eight hundred thousand]~~ two million megawatt-hours. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the applicant is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

D. To claim a renewable energy production tax credit, a taxpayer that has been certified as eligible pursuant to Subsection C of this section shall submit to the taxation

1 and revenue department the certificate issued by the energy,  
2 minerals and natural resources department, documentation of the  
3 amount of electricity produced by the taxpayer's facility in  
4 the taxable year and any other information the taxation and  
5 revenue department may require to determine the amount of the  
6 tax credit due the taxpayer.

7 E. Once a taxpayer has been granted a renewable  
8 energy production tax credit for a given facility, that  
9 taxpayer shall be allowed to retain its original date of  
10 application for tax credits for that facility until either the  
11 facility goes out of production for more than six consecutive  
12 months in a year or until the facility's ten-year eligibility  
13 has expired.

14 F. The renewable energy production tax credit may  
15 be deducted from the taxpayer's New Mexico corporate income tax  
16 liability for the taxable year. If the amount of the tax  
17 credit claimed exceeds the taxpayer's corporate income tax  
18 liability, the excess may be carried forward for up to five  
19 consecutive taxable years. "