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HOUSE BILL 39

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

INTRODUCED BY

Jim R. Trujillo and Phil A. Griego

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

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 of the taxpayer for the reporting period for  
20 the gross receipts tax imposed [by] pursuant to Section 7-9-4  
21 NMSA 1978, ~~[together with any tax collected at the same time~~  
22 ~~and in the same manner as that gross receipts tax, such as]~~ the  
23 compensating tax imposed pursuant to Section 7-9-7 NMSA 1978  
24 and the withholding tax ~~[the interstate telecommunications~~  
25 ~~gross receipts tax, the surcharge imposed by Section 63-9D-5~~

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1 ~~NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA~~  
2 ~~1978, minus the amount of any credit other than the alternative~~  
3 ~~energy product manufacturers tax credit applied against any or~~  
4 ~~all of those taxes or surcharges]~~ imposed on wages pursuant to  
5 Section 7-3-3 NMSA 1978, notwithstanding any distribution or  
6 transfer pursuant to the Tax Administration Act with respect to  
7 net receipts from those liabilities; provided that "modified  
8 combined tax liability" excludes [~~all amounts collected with~~  
9 ~~respect to~~] any liability resulting from a local option gross  
10 receipts [~~taxes~~] tax;

11 J. "pass-through entity" means a business  
12 association other than:

- 13 (1) a sole proprietorship;  
14 (2) an estate or trust;  
15 (3) a corporation, limited liability company,  
16 partnership or other entity that is not a sole proprietorship  
17 taxed as a corporation for federal income tax purposes for the  
18 taxable year; or  
19 (4) a partnership that is organized as an  
20 investment partnership in which the partner's income is derived  
21 solely from interest, dividends and sales of securities;

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

25 L. "qualified plug-in electric drive vehicle" means

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1 a motor vehicle with four wheels that:

2 (1) is made by a manufacturer;

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

5 (3) has not been modified from the original  
6 manufacturer specifications;

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

9 (5) is rated at not less than two thousand two  
10 hundred pounds unloaded gross vehicle weight and not more than  
11 eight thousand five hundred pounds unloaded gross vehicle  
12 weight;

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

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

17 (a) has a capacity of not less than four  
18 kilowatt-hours; and

19 (b) is capable of being recharged from  
20 an external source of electricity;

21 ~~[E.]~~ M. "renewable energy" means energy from solar  
22 heat, solar light, wind, geothermal energy, landfill gas or  
23 biomass either singly or in combination that produces low or  
24 zero emissions and has substantial long-term production  
25 potential;

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1           ~~[M-]~~ N. "renewable energy system" means a system  
2 using only renewable energy to produce hydrogen or to generate  
3 electricity, including related cogeneration systems that create  
4 mechanical energy or that produce heat or steam for space or  
5 water heating and agricultural or small industrial processes  
6 and includes a:

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

13           ~~[N-]~~ O. "taxpayer" means a person, including a  
14 shareholder, member, partner or other owner of a pass-through  
15 entity, who is liable for payment of a tax or to whom an  
16 assessment has been made if the assessment remains unabated or  
17 the amount thereof has not been paid."

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

20           "7-14-6. EXEMPTIONS FROM TAX.--

21                   A. A person who acquires a vehicle out of state  
22 thirty or more days before establishing a domicile in this  
23 state is exempt from the tax if the vehicle was acquired for  
24 personal use.

25                   B. A person applying for a certificate of title for

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1 a vehicle registered in another state is exempt from the tax if  
2 the person has previously registered and titled the vehicle in  
3 New Mexico and has owned the vehicle continuously since that  
4 time.

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

7 D. A person is exempt from the tax if the person  
8 has a disability at the time the person purchases a vehicle and  
9 can prove to the motor vehicle division of the department or  
10 its agent that modifications have been made to the vehicle that  
11 are:

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

15 E. A person is exempt from the tax if the person is  
16 a bona fide resident of New Mexico who served in the armed  
17 forces of the United States and who suffered, while serving in  
18 the armed forces or from a service-connected cause, the loss or  
19 complete and total loss of use of:

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

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

- 24 (1) the person does not use the vehicle in any  
25 manner other than holding it for lease or sale or leasing or

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1 selling it in the ordinary course of business;

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

4 (3) the receipts from the subsequent lease are  
5 subject to the gross receipts tax; and

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

8 G. From July 1, [2004] 2011 through June 30, [2009]  
9 2014, vehicles that are [~~gasoline-electric hybrid~~] qualified  
10 plug-in electric drive vehicles [~~with a United States~~  
11 ~~environmental protection agency fuel economy rating of at least~~  
12 ~~twenty-seven and one-half miles per gallon~~] are eligible for a  
13 one-time exemption from the tax at the time of the issuance of  
14 the original certificate of title for the vehicle."

15 SECTION 5. APPLICABILITY.--The provisions of this act  
16 apply to a qualified plug-in electric drive vehicle, defined in  
17 Section 7-9J-2 NMSA 1978, that is acquired for use or lease by  
18 a consumer on or after July 1, 2011 but before July 1, 2014.

19 SECTION 6. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2011.