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SENATE BILL 210

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

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; ENACTING A NEW SECTION OF THE INCOME TAX ACT AND A NEW SECTION OF THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE FOR HYDROGEN FUEL PRODUCTION TAX CREDITS.

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

SECTION 1. A new section of the Income Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ HYDROGEN FUEL PRODUCTION PERSONAL INCOME TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return and who is not a dependent of another taxpayer may claim the hydrogen fuel production personal income tax credit if the taxpayer holds title to a qualified hydrogen fuel or hydrogen resource generator that first produced hydrogen on or before January 1, 2018.

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1 B. The tax credit provided in this section may be
2 referred to as the "hydrogen fuel production personal income
3 tax credit". The purpose of the hydrogen fuel production
4 personal income tax credit is to stimulate the production of
5 hydrogen as a renewable fuel and energy source.

6 C. The tax credit provided in this section shall
7 not be claimed in addition to the renewable energy production
8 tax credit pursuant to Section 7-2-18.18 or 7-2A-19 NMSA 1978.

9 D. The amount of the tax credit shall equal the
10 cost of generating the hydrogen but shall not exceed one dollar
11 (\$1.00) per kilogram of the first four million kilograms of
12 hydrogen fuel produced and sold by the qualified hydrogen fuel
13 or hydrogen resource generator in the taxable year.

14 E. A taxpayer eligible for a hydrogen fuel
15 production personal income tax credit shall be eligible for the
16 tax credit for ten consecutive years, beginning on the date
17 that the qualified hydrogen fuel or hydrogen resource generator
18 begins producing hydrogen. Any portion of the tax credit
19 allowed pursuant to this section that remains unused at the end
20 of the taxpayer's taxable year may be carried forward for ten
21 consecutive years.

22 F. A person who otherwise qualifies and claims a
23 hydrogen fuel production personal income tax credit with
24 respect to property owned by a partnership or other business
25 association of which the person is a member may claim a credit

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1 only in proportion to that person's interest in the partnership
2 or association. The total credit claimed in the aggregate by
3 all members of the partnership or association with respect to
4 the property shall not exceed the amount of the credit that
5 could have been claimed by a sole owner of the property.

6 G. A husband and wife who file separate returns for
7 a taxable year in which they could have filed a joint return
8 may each claim only one-half of the credit that would have been
9 allowed on a joint return.

10 H. No later than October 30 of each year, the
11 department shall compile a report in regard to the hydrogen
12 fuel production personal and corporate income tax credits
13 provided pursuant to the Income Tax Act and the Corporate
14 Income and Franchise Tax Act for the revenue stabilization and
15 tax policy committee that includes:

16 (1) the number of people applying for hydrogen
17 fuel production personal and corporate income tax credits;

18 (2) the number and amount of hydrogen fuel
19 production personal and corporate income tax credits allowed;

20 (3) the number of new jobs created in New
21 Mexico in the taxable year by construction and installation of
22 hydrogen fuel or resource systems, the level of production of
23 hydrogen fuel by qualified hydrogen fuel or hydrogen resource
24 generators claiming the tax credit and the total production
25 level in the state;

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1 (4) the number of people employed in the
2 generation of hydrogen for fuel and the average median wage of
3 those employees; and

4 (5) any other data or information deemed
5 necessary by the department to aid the committee in determining
6 the impact of the hydrogen fuel production personal and
7 corporate income tax credits.

8 I. Notwithstanding any other section of law to the
9 contrary, the department may reveal to the revenue
10 stabilization and tax policy committee the number of applicants
11 seeking hydrogen fuel production personal income tax credits
12 pursuant to this section and the amount of each credit
13 approved.

14 J. The revenue stabilization and tax policy
15 committee shall review the impact of the hydrogen fuel
16 production personal income tax credit every five years
17 beginning in 2014.

18 K. Acceptance by a person of a hydrogen fuel
19 production personal income tax credit pursuant to this section
20 is authorization by the person receiving the tax credit for the
21 department to reveal information to the legislature necessary
22 to analyze the impact of the hydrogen fuel production personal
23 income tax credit on state revenues.

24 L. As used in this section, "qualified hydrogen
25 fuel generator" means a hydrogen fuel generator or hydrogen

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1 energy resource generator that uses:

2 (1) renewably powered electrolysis such as
3 that which is:

4 (a) solar-light-derived;

5 (b) solar-heat-derived;

6 (c) wind-derived;

7 (d) hydroelectric-derived; or

8 (e) geothermal-derived;

9 (2) renewably powered pyrolysis such as that
10 which is:

11 (a) solar-light-derived;

12 (b) solar-heat-derived;

13 (c) plasma-derived;

14 (d) wind-derived;

15 (e) hydroelectric-derived; or

16 (f) geothermal-derived; or

17 (3) biomass or cellulose."

18 SECTION 2. A new section of the Corporate Income and
19 Franchise Tax Act is enacted to read:

20 "[NEW MATERIAL] HYDROGEN FUEL PRODUCTION CORPORATE INCOME
21 TAX CREDIT.--

22 A. A taxpayer that files a New Mexico corporate
23 income tax return may claim the hydrogen fuel production
24 corporate income tax credit if the taxpayer holds title to a
25 qualified hydrogen fuel or hydrogen resource generator that

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1 first produced hydrogen on or before January 1, 2018.

2 B. The tax credit provided in this section may be
3 referred to as the "hydrogen fuel production corporate income
4 tax credit". The purpose of the hydrogen fuel production
5 corporate income tax credit is to stimulate the production of
6 hydrogen as a renewable fuel and energy source.

7 C. The tax credit provided in this section shall
8 not be claimed as an addition to the renewable energy
9 production tax credit pursuant to Section 7-2-18.18 or 7-2A-19
10 NMSA 1978.

11 D. The amount of the tax credit shall equal the
12 cost of generating the hydrogen but shall not exceed one dollar
13 (\$1.00) per kilogram of the first four million kilograms of
14 hydrogen fuel produced and sold by the qualified hydrogen fuel
15 or hydrogen resource generator in the taxable year.

16 E. A taxpayer eligible for a hydrogen fuel
17 production corporate income tax credit shall be eligible for
18 the tax credit for ten consecutive years, beginning on the date
19 the qualified hydrogen fuel or hydrogen resource generator
20 begins producing hydrogen. Any portion of the tax credit
21 allowed pursuant to this section that remains unused at the end
22 of the taxpayer's taxable year may be carried forward for ten
23 consecutive years.

24 F. No later than October 30 of each year, the
25 department shall compile a report in regard to the hydrogen

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1 fuel production personal and corporate income tax credits
2 provided pursuant to the Income Tax Act and the Corporate
3 Income and Franchise Tax Act for the revenue stabilization and
4 tax policy committee that includes:

5 (1) the number of people applying for hydrogen
6 fuel production personal and corporate income tax credits;

7 (2) the number and amount of hydrogen fuel
8 production personal and corporate income tax credits allowed;

9 (3) the number of new jobs created in New
10 Mexico in the taxable year by construction and installation of
11 hydrogen fuel or resource systems, the level of production of
12 hydrogen fuel by qualified hydrogen fuel or hydrogen resource
13 generators claiming the tax credit and the total production
14 level in the state;

15 (4) the number of people employed in the
16 generation of hydrogen for fuel and the average and median
17 wages of those employed; and

18 (5) any other data or information deemed
19 necessary by the department to aid the committee in determining
20 the impact of the hydrogen fuel production personal and
21 corporate income tax credits.

22 G. Notwithstanding any other section of law to the
23 contrary, the department may reveal to the revenue
24 stabilization and tax policy committee the number of applicants
25 seeking hydrogen fuel production corporate income tax credits

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1 pursuant to this section and the amount of each tax credit
2 approved.

3 H. The revenue stabilization and tax policy
4 committee shall review the impact of the hydrogen fuel
5 production corporate income tax credit every five years
6 beginning in 2014.

7 I. Acceptance by a person of a hydrogen fuel
8 production corporate income tax credit pursuant to this section
9 is authorization by the person receiving the credit for the
10 department to reveal information to the legislature necessary
11 to analyze the impact of the hydrogen fuel production tax
12 credit on state revenues.

13 J. As used in this section, "qualified hydrogen
14 fuel generator" means a hydrogen fuel generator or hydrogen
15 energy resource generator that uses:

16 (1) renewably powered electrolysis such as
17 that which is:

- 18 (a) solar-light-derived;
- 19 (b) solar-heat-derived;
- 20 (c) wind-derived;
- 21 (d) hydroelectric-derived; or
- 22 (e) geothermal-derived;

23 (2) renewably powered pyrolysis such as that
24 which is:

- 25 (a) solar-light-derived;

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- (b) solar-heat-derived;
 - (c) plasma-derived
 - (d) wind-derived;
 - (e) hydroelectric-derived; or
 - (f) geothermal-derived; or
- (3) biomass or cellulose."

SECTION 3. APPLICABILITY.--The provisions of this act are applicable to taxable years beginning on or after January 1, 2011.