

SENATE FLOOR SUBSTITUTE FOR
SENATE BILL 210

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

AN ACT

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

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

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

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

A. A taxpayer that files a New Mexico corporate
income tax return may claim the hydrogen fuel production
corporate income tax credit if the taxpayer holds title to a
qualified hydrogen fuel or hydrogen resource generator that
first produced and sold hydrogen on or before January 1, 2018.

B. The tax credit provided in this section may be

1 referred to as the "hydrogen fuel production corporate income
2 tax credit". The purpose of the hydrogen fuel production
3 corporate income tax credit is to stimulate the production and
4 sale of hydrogen as a renewable fuel and energy source.

5 C. The tax credit provided in this section shall
6 not be claimed as an addition to the renewable energy
7 production tax credit pursuant to Section 7-2-18.18 or 7-2A-19
8 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 corporate income tax credit shall be eligible for
16 the tax credit for five consecutive years, beginning on the
17 date 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 five
21 consecutive years.

22 F. No later than October 30 of each year, the
23 department shall compile a report in regard to the hydrogen
24 fuel production corporate income tax credit provided pursuant
25 to the Corporate Income and Franchise Tax Act for the revenue

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1 stabilization and tax policy committee that includes:

2 (1) the number of people applying for a
3 hydrogen fuel production corporate income tax credit;

4 (2) the number and amount of hydrogen fuel
5 production corporate income tax credits allowed;

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

12 (4) the number of people employed in the
13 generation of hydrogen for fuel and the average and median
14 wages of those employed; and

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

19 G. Notwithstanding any other section of law to the
20 contrary, the department may reveal to the revenue
21 stabilization and tax policy committee the number of applicants
22 seeking hydrogen fuel production corporate income tax credits
23 pursuant to this section and the amount of each tax credit
24 approved.

25 H. The revenue stabilization and tax policy

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1 committee shall review the impact of the hydrogen fuel
2 production corporate income tax credit every five years
3 beginning in 2014.

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

9 J. As used in this section, "qualified hydrogen
10 fuel or hydrogen resource generator" means a hydrogen fuel
11 generator or hydrogen resource generator that uses:

12 (1) renewably powered electrolysis such as
13 that which is:

- 14 (a) solar-light-derived;
- 15 (b) solar-heat-derived;
- 16 (c) wind-derived;
- 17 (d) hydroelectric-derived; or
- 18 (e) geothermal-derived;

19 (2) renewably powered pyrolysis such as that
20 which is:

- 21 (a) solar-light-derived;
- 22 (b) solar-heat-derived;
- 23 (c) plasma-derived
- 24 (d) wind-derived;
- 25 (e) hydroelectric-derived; or

- 1 (f) geothermal-derived; or
- 2 (3) biomass or cellulose."

3 SECTION 2. APPLICABILITY.--The provisions of this act are
4 applicable to taxable years beginning on or after January 1,
5 2011.

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underscored material = new
[bracketed material] = delete

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