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AN ACT

RELATING TO TAXATION; AMENDING THE ALTERNATIVE ENERGY PRODUCT  
MANUFACTURERS TAX CREDIT ACT TO INCLUDE A PRODUCT EXTRACTED  
FROM OR SECRETED BY A SINGLE CELL PHOTOSYNTHETIC ORGANISM AS  
AN ELIGIBLE ALTERNATIVE ENERGY PRODUCT.

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

SECTION 1. Section 7-9J-2 NMSA 1978 (being Laws 2007,  
Chapter 204, Section 12) is amended to read:

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

A. "alternative energy product" means an  
alternative energy vehicle, fuel cell system, renewable  
energy system or any component of an alternative energy  
vehicle, fuel cell system or renewable energy system;  
components for integrated gasification combined cycle coal  
facilities and equipment related to the sequestration of  
carbon from integrated gasification combined cycle plants;  
or, beginning in taxable year 2011 and ending in taxable year  
2019, a product extracted from or secreted by a single cell  
photosynthetic organism;

B. "alternative energy vehicle" means a motor  
vehicle manufactured by an original equipment manufacturer  
that fully warrants and certifies that the motor vehicle  
meets the federal motor vehicle safety standards and is

1 designed to be propelled in whole or in part by electricity;  
2 "alternative energy vehicle" includes a gasoline-electric  
3 hybrid motor vehicle exempt from the motor vehicle excise tax  
4 pursuant to Subsection G of Section 7-14-6 NMSA 1978;

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  
25 the ordinary course of business, but "manufacturing" does not

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  
11 of transporting persons or property, including property for  
12 which the taxpayer claims a credit pursuant to Section 7-9-79  
13 NMSA 1978;

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

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

1 minus the amount of any credit other than the alternative  
2 energy product manufacturers tax credit applied against any  
3 or all of those taxes or surcharges; provided that "modified  
4 combined tax liability" excludes all amounts collected with  
5 respect to local 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  
11 company, partnership or other entity that is not a sole  
12 proprietorship taxed as a corporation for federal income tax  
13 purposes for the taxable year; or

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

18 K. "qualified expenditure" means an expenditure  
19 for the purchase of manufacturing equipment made after July  
20 1, 2006 by a taxpayer approved by the department;

21 L. "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;

1 M. "renewable energy system" means a system using  
2 only renewable energy to produce hydrogen or to generate  
3 electricity, including related cogeneration systems that  
4 create mechanical energy or that produce heat or steam for  
5 space or water heating and agricultural or small industrial  
6 processes 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. "taxpayer" means a person, including a  
14 shareholder, member, partner or other owner of a pass-through  
15 entity, that 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."