



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER 108

SENATE BILL 233, as amended

Introduced by

SENATOR CARROLL H. LEAVELL
SENATOR VERNON D. ASBILL
SENATOR GAY G. KERNAN
SENATOR STEVEN P. NEVILLE



Chapter 108

AN ACT

1
2 RELATING TO TAXATION; AMENDING THE ALTERNATIVE ENERGY PRODUCT
3 MANUFACTURERS TAX CREDIT ACT TO INCLUDE A PRODUCT EXTRACTED
4 FROM OR SECRETED BY A SINGLE CELL PHOTOSYNTHETIC ORGANISM AS
5 AN ELIGIBLE ALTERNATIVE ENERGY PRODUCT.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

10 "7-9J-2. DEFINITIONS.--As used in the Alternative
11 Energy Product Manufacturers Tax Credit Act:

12 A. "alternative energy product" means an
13 alternative energy vehicle, fuel cell system, renewable
14 energy system or any component of an alternative energy
15 vehicle, fuel cell system or renewable energy system;
16 components for integrated gasification combined cycle coal
17 facilities and equipment related to the sequestration of
18 carbon from integrated gasification combined cycle plants;
19 or, beginning in taxable year 2011 and ending in taxable year
20 2019, a product extracted from or secreted by a single cell
21 photosynthetic organism;

22 B. "alternative energy vehicle" means a motor
23 vehicle manufactured by an original equipment manufacturer
24 that fully warrants and certifies that the motor vehicle
25 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;

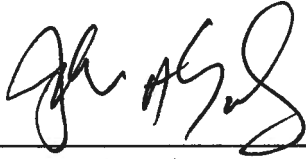
18 K. "qualified expenditure" means an expenditure
19 for the purchase of manufacturing equipment made after July 1,
20 2006 by a taxpayer approved by the department;

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;

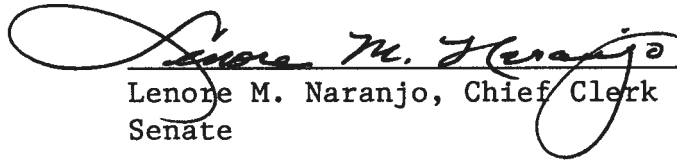
1 M. "renewable energy system" means a system using
2 only renewable energy to produce hydrogen or to generate
3 electricity, including related cogeneration systems that
4 create mechanical energy or that produce heat or steam for
5 space or water heating and agricultural or small industrial
6 processes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

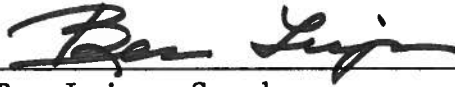
13 N. "taxpayer" means a person, including a
14 shareholder, member, partner or other owner of a pass-through
15 entity, that is liable for payment of a tax or to whom an
16 assessment has been made if the assessment remains unabated or
17 the amount thereof has not been paid." _____



John A. Sanchez, President
Senate



Lenore M. Naranjo, Chief Clerk
Senate

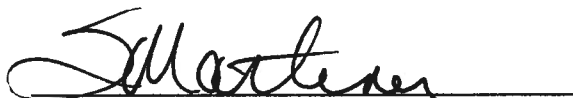


Ben Lujan, Speaker
House of Representatives



Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 6th day of April, 2011



Governor Susana Martinez
State of New Mexico

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