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HOUSE BILL 319

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

David M. Gallegos

AN ACT

RELATING TO TAXATION; CREATING A CLEAN-BURNING MOTOR VEHICLE
FUEL EQUIPMENT TAX CREDIT AGAINST PERSONAL AND CORPORATE INCOME
TAXES.

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] CLEAN-BURNING MOTOR VEHICLE FUEL EQUIPMENT
INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another
taxpayer may claim a credit against the taxpayer's liability
imposed by the Income Tax Act if, after December 31, 2017 and
before January 1, 2024, the taxpayer purchases and installs a
qualified clean-burning motor vehicle fuel equipment device and
otherwise meets the requirements of this section. The credit

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1 provided by this section may be referred to as the "clean-
2 burning motor vehicle fuel equipment income tax credit".

3 B. The purpose of the clean-burning motor vehicle
4 fuel equipment income tax credit is to address a concern for
5 the environment, improve air quality, reduce dependence on
6 volatile sources of foreign oil and enhance the state's
7 economic base by promoting the use of and network for the
8 state's abundant supply of natural gas and other clean-burning
9 motor vehicle fuels.

10 C. A taxpayer may only claim a clean-burning motor
11 vehicle fuel equipment income tax credit:

12 (1) for the taxable year in which:

13 (a) the taxpayer completes installation,
14 within one mile of an interstate highway that is owned,
15 operated or maintained by the department of transportation, of
16 one or more qualified clean-burning motor vehicle fuel
17 equipment devices; or

18 (b) the taxpayer, having been eligible
19 in a previous taxable year for a certificate of eligibility for
20 the credit, but who did not receive a certificate because the
21 annual credit limit established in Paragraph (2) of Subsection
22 D of this section was reached, receives a postponed certificate
23 of eligibility for the credit;

24 (2) in an amount up to:

25 (a) fifty percent of the cost of the

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1 purchase and installation if installation is completed in 2018;

2 (b) forty-five percent of the cost of
3 the purchase and installation if installation is completed in
4 2019;

5 (c) forty percent of the cost of the
6 purchase and installation if installation is completed in 2020;

7 (d) thirty-five percent of the cost of
8 the purchase and installation if installation is completed in
9 2021;

10 (e) thirty percent of the cost of the
11 purchase and installation if installation is completed in 2022;
12 and

13 (f) twenty-five percent of the cost of
14 the purchase and installation if installation is completed in
15 2023;

16 (3) once per device and location;

17 (4) for no more than five hundred thousand
18 dollars (\$500,000) per device and location; and

19 (5) by claiming the credit on forms and in the
20 manner prescribed by the taxation and revenue department and
21 including a certificate of eligibility received in accordance
22 with Subsection D of this section.

23 D. Upon completed installation of a clean-burning
24 motor vehicle fuel equipment device, a taxpayer may request
25 from the energy, minerals and natural resources department a

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1 certificate of eligibility for a clean-burning motor vehicle
2 fuel equipment income tax credit. The energy, minerals and
3 natural resources department shall:

4 (1) consider applications for certificates of
5 eligibility of clean-burning motor vehicle fuel equipment
6 income tax credits and clean-burning motor vehicle fuel
7 equipment corporate income tax credits in the order received
8 and issue certificates in that order;

9 (2) each year, issue no more than five million
10 dollars (\$5,000,000) in certificates of eligibility for clean-
11 burning motor vehicle fuel equipment income tax credits and
12 clean-burning motor vehicle fuel equipment corporate income tax
13 credits;

14 (3) issue a certificate of eligibility to the
15 taxpayer if it determines that the taxpayer meets the
16 requirements of this section and that the annual credit limit
17 established in Paragraph (2) of this subsection has not been
18 reached;

19 (4) maintain a chronologically ordered list of
20 taxpayers who, had the annual credit limit not been reached,
21 would be eligible to receive the credit;

22 (5) issue postponed certificates of
23 eligibility to those taxpayers in order of eligibility and as
24 the annual credit limit allows;

25 (6) include in each certificate of eligibility

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1 the taxable year for which the taxpayer is eligible to claim
2 the credit and a calculation of the maximum amount of the
3 credit for which the taxpayer is eligible; and

4 (7) promulgate rules as necessary for the
5 issuance of certificates of eligibility for the credit.

6 E. That portion of a clean-burning motor vehicle
7 fuel equipment income tax credit that exceeds a taxpayer's tax
8 liability in the taxable year in which the credit is claimed
9 may be carried forward for a maximum of five consecutive
10 taxable years.

11 F. Married individuals filing separate returns for
12 a taxable year for which they could have filed a joint return
13 may each claim no more than one-half of the clean-burning motor
14 vehicle fuel equipment income tax credit that could have been
15 claimed on a joint return.

16 G. A taxpayer who is a co-owner of a business
17 entity that is treated as a pass-through entity for federal
18 income tax purposes, including a partner in a partnership, a
19 member of a limited liability company or a shareholder of an S
20 corporation as defined in Section 1361 of the Internal Revenue
21 Code, may claim the clean-burning motor vehicle fuel equipment
22 income tax credit in proportion to the taxpayer's ownership
23 interest in the business entity; provided that the business
24 entity has met all the requirements to be eligible for the
25 credit and that the total credit amount claimed by all owners

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1 of the entity does not exceed the amount allowed by Subsection
2 C of this section.

3 H. The taxation and revenue department shall
4 compile an annual report on the clean-burning motor vehicle
5 fuel equipment income tax credit that includes the number of
6 taxpayers who claimed the credit, the aggregate amount of
7 credits claimed and any other information necessary to evaluate
8 the effectiveness of the credit. Beginning in 2019 and every
9 year thereafter that the credit is in effect, the department
10 shall present the report to the revenue stabilization and tax
11 policy committee and the legislative finance committee with an
12 analysis of the effectiveness and cost of the credit and
13 whether the credit is performing the purpose for which it was
14 created.

15 I. As used in this section:

16 (1) "clean-burning motor vehicle fuel" means a
17 compressed, liquefied or renewable natural gas fuel that emits
18 oxides of nitrogen, volatile organic compounds, carbon
19 monoxide, particulates or any combination of these at a level
20 lower than gasoline or diesel and that meets or exceeds federal
21 clean air standards;

22 (2) "clean-burning motor vehicle fuel
23 equipment device":

24 (a) means a fueling device used directly
25 to deliver clean-burning motor vehicle fuel for commercial

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1 purposes or for a fee into the fuel tanks of motor vehicles
2 propelled by that fuel;

3 (b) includes compression equipment and
4 storage tanks for clean-burning motor vehicle fuel at the fuel-
5 delivery location if that equipment or tank is not used to
6 deliver fuel into any other type of storage tank or receptacle
7 and if that fuel is used only to propel motor vehicles; and

8 (c) excludes buildings and related
9 structural components at the location where the equipment is
10 installed; and

11 (3) "location" means a business premises where
12 one or more devices are available for the commercial
13 dispensation of fuel into a motor vehicle."

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

16 "[NEW MATERIAL] CLEAN-BURNING MOTOR VEHICLE FUEL EQUIPMENT
17 CORPORATE INCOME TAX CREDIT.--

18 A. A taxpayer that files a New Mexico corporate
19 income tax return may claim a credit against the taxpayer's
20 liability imposed by the Corporate Income and Franchise Tax Act
21 if, after December 31, 2017 and before January 1, 2024, the
22 taxpayer purchases and installs a qualified clean-burning motor
23 vehicle fuel equipment device and otherwise meets the
24 requirements of this section. The credit provided by this
25 section may be referred to as the "clean-burning motor vehicle

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1 fuel equipment corporate income tax credit".

2 B. The purpose of the clean-burning motor vehicle
3 fuel equipment corporate income tax credit is to address a
4 concern for the environment, improve air quality, reduce
5 dependence on volatile sources of foreign oil and enhance the
6 state's economic base by promoting the use of and network for
7 the state's abundant supply of natural gas and other clean-
8 burning motor vehicle fuels.

9 C. A taxpayer may only claim a clean-burning motor
10 vehicle fuel equipment corporate income tax credit:

11 (1) for the taxable year in which:

12 (a) the taxpayer completes installation,
13 within one mile of an interstate highway that is owned,
14 operated or maintained by the department of transportation, of
15 one or more qualified clean-burning motor vehicle fuel
16 equipment devices; or

17 (b) the taxpayer, having been eligible
18 in a previous taxable year for a certificate of eligibility for
19 the credit, but that did not receive a certificate because the
20 annual credit limit established in Paragraph (2) of Subsection
21 D of this section was reached, receives a postponed certificate
22 of eligibility for the credit;

23 (2) in an amount up to:

24 (a) fifty percent of the cost of the
25 purchase and installation if installation is completed in 2018;

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1 (b) forty-five percent of the cost of
2 the purchase and installation if installation is completed in
3 2019;

4 (c) forty percent of the cost of the
5 purchase and installation if installation is completed in 2020;

6 (d) thirty-five percent of the cost of
7 the purchase and installation if installation is completed in
8 2021;

9 (e) thirty percent of the cost of the
10 purchase and installation if installation is completed in 2022;
11 and

12 (f) twenty-five percent of the cost of
13 the purchase and installation if installation is completed in
14 2023;

15 (3) once per device and location;

16 (4) for no more than five hundred thousand
17 dollars (\$500,000) per device and location; and

18 (5) by claiming the credit on forms and in the
19 manner prescribed by the taxation and revenue department and
20 including a certificate of eligibility received in accordance
21 with Subsection D of this section.

22 D. Upon completed installation of a clean-burning
23 motor vehicle fuel equipment device, a taxpayer may request
24 from the energy, minerals and natural resources department a
25 certificate of eligibility for a clean-burning motor vehicle

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1 fuel equipment corporate income tax credit. The energy,
2 minerals and natural resources department shall:

3 (1) consider applications for certificates of
4 eligibility of clean-burning motor vehicle fuel equipment
5 income tax credits and clean-burning motor vehicle fuel
6 equipment corporate income tax credits in the order received
7 and issue certificates in that order;

8 (2) each year, issue no more than five million
9 dollars (\$5,000,000) in certificates of eligibility for clean-
10 burning motor vehicle fuel equipment income tax credits and
11 clean-burning motor vehicle fuel equipment corporate income tax
12 credits;

13 (3) issue a certificate of eligibility to the
14 taxpayer if it determines that the taxpayer meets the
15 requirements of this section and that the annual credit limit
16 established in Paragraph (2) of this subsection has not been
17 reached;

18 (4) maintain a chronologically ordered list of
19 taxpayers that, had the annual credit limit not been reached,
20 would be eligible to receive the credit;

21 (5) issue postponed certificates of
22 eligibility to those taxpayers in order of eligibility and as
23 the annual credit limit allows;

24 (6) include in each certificate of eligibility
25 the taxable year for which the taxpayer is eligible to claim

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1 the credit and a calculation of the maximum amount of the
2 credit for which the taxpayer is eligible; and

3 (7) promulgate rules as necessary for the
4 issuance of certificates of eligibility for the credit.

5 E. That portion of a clean-burning motor vehicle
6 fuel equipment corporate income tax credit that exceeds a
7 taxpayer's tax liability in the taxable year in which the
8 credit is claimed may be carried forward for a maximum of five
9 consecutive taxable years.

10 F. A taxpayer that is a co-owner of a business
11 entity that is treated as a pass-through entity for federal
12 income tax purposes, including a partner in a partnership or a
13 member of a limited liability company, may claim the clean-
14 burning motor vehicle fuel equipment corporate income tax
15 credit in proportion to the taxpayer's ownership interest in
16 the business entity, provided that the business entity has met
17 all the requirements to be eligible for the credit and that the
18 total credit amount claimed by all owners of the entity does
19 not exceed the amount allowed by Subsection C of this section.

20 G. The taxation and revenue department shall
21 compile an annual report on the clean-burning motor vehicle
22 fuel equipment corporate income tax credit that includes the
23 number of taxpayers that claimed the credit, the aggregate
24 amount of credits claimed and any other information necessary
25 to evaluate the effectiveness of the credit. Beginning in 2019

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1 and every year thereafter that the credit is in effect, the
2 department shall present the report to the revenue
3 stabilization and tax policy committee and the legislative
4 finance committee with an analysis of the effectiveness and
5 cost of the credit and whether the credit is performing the
6 purpose for which it was created.

7 H. As used in this section:

8 (1) "clean-burning motor vehicle fuel" means a
9 compressed, liquefied or renewable natural gas fuel that emits
10 oxides of nitrogen, volatile organic compounds, carbon
11 monoxide, particulates or any combination of these at a level
12 lower than gasoline or diesel and that meets or exceeds federal
13 clean air standards;

14 (2) "clean-burning motor vehicle fuel
15 equipment device":

16 (a) means a fueling device used directly
17 to deliver clean-burning motor vehicle fuel for commercial
18 purposes or for a fee into the fuel tanks of motor vehicles
19 propelled by that fuel;

20 (b) includes compression equipment and
21 storage tanks for clean-burning motor vehicle fuel at the fuel-
22 delivery location if that equipment or tank is not used to
23 deliver fuel into any other type of storage tank or receptacle
24 and if that fuel is used only to propel motor vehicles; and

25 (c) excludes buildings and related

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1 structural components at the location where the equipment is
2 installed; and

3 (3) "location" means a business premises where
4 one or more devices are available for the commercial
5 dispensation of fuel into a motor vehicle."

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