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SENATE BILL 187

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO TAXATION; PROVIDING A RENEWABLE ENERGY PRODUCTION
TAX CREDIT; MAKING AN APPROPRIATION.

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] RENEWABLE ENERGY PRODUCTION TAX CREDIT--
LIMITATIONS-- DEFINITIONS-- CLAIMING THE CREDIT.--

A. A taxpayer that owns a qualified energy
generator certified by the energy, minerals and natural
resources department is eligible for a tax credit in an amount
equal to one cent (\$.01) per kilowatt-hour for the first four
hundred thousand megawatt-hours of electricity produced by the
qualified energy generator using a qualified energy resource
in the taxable year. A taxpayer shall be eligible for the tax

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1 credit for ten consecutive years, beginning on the date the
2 qualified energy generator begins producing electricity. The
3 tax credit provided in this section may be referred to as the
4 "renewable energy production tax credit".

5 B. As used in this section:

6 (1) "qualified energy generator" means a
7 facility with at least twenty megawatts generating capacity
8 located in New Mexico that produces electricity using a
9 qualified energy resource and that sells that electricity to
10 an unrelated person; and

11 (2) "qualified energy resource" means a
12 resource that generates electrical energy by means of a zero-
13 emissions generation technology that has substantial long-term
14 production potential and that uses only the following energy
15 sources:

- 16 (a) solar light;
- 17 (b) solar heat; or
- 18 (c) wind.

19 C. A taxpayer may request certification of
20 eligibility for the renewable energy production tax credit
21 from the energy, minerals and natural resources department,
22 which shall determine if the applicant is a qualified energy
23 generator; provided that the department may certify the
24 eligibility of an energy generator only if the total amount of
25 electricity that may be produced annually by all qualified

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1 energy generators that are certified will not exceed eight
2 hundred thousand megawatt-hours. Applications shall be
3 considered in the order received. The energy, minerals and
4 natural resources department may estimate the annual power-
5 generating potential of a generating facility for the purposes
6 of this section. The energy, minerals and natural resources
7 department shall issue a certificate to the applicant stating
8 whether the applicant is an eligible qualified energy
9 generator and the estimated annual production potential of the
10 generating facility, which shall be the limit of that
11 facility's energy production eligible for the tax credit for
12 the taxable year. The energy, minerals and natural resources
13 department may issue rules governing the procedure for
14 administering the provisions of this subsection.

15 D. To claim a renewable energy production tax
16 credit, a taxpayer that has been certified as eligible
17 pursuant to Subsection C of this section shall submit to the
18 taxation and revenue department the certificate issued by the
19 energy, minerals and natural resources department,
20 documentation of the amount of electricity produced by the
21 taxpayer's facility in the taxable year, and any other
22 information the taxation and revenue department may require to
23 determine the amount of the tax credit due the taxpayer.

24 E. Once a taxpayer has been granted a renewable
25 energy production tax credit for a given facility, that

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1 taxpayer shall be allowed to retain its original date of
2 application for tax credits for that facility until either the
3 facility goes out of production for more than six consecutive
4 months in a year or until the facility's ten-year eligibility
5 has expired.

6 F. The renewable energy production tax credit may
7 be deducted from the taxpayer's New Mexico corporate income
8 tax liability for the taxable year. If the amount of the tax
9 credit claimed exceeds the taxpayer's corporate income tax
10 liability, the excess may be carried forward for up to five
11 consecutive taxable years. "

12 Section 2. APPROPRIATION. -- One hundred thousand dollars
13 (\$100,000) is appropriated from the general fund to the
14 energy, minerals and natural resources department for
15 expenditure in fiscal year 2003 to carry out the provisions of
16 this act. Any unexpended or unencumbered balance remaining at
17 the end of fiscal year 2003 shall revert to the general fund.

18 Section 3. APPLICABILITY. -- The provisions of this act
19 apply to taxable years beginning on or after July 1, 2002.