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SENATE BILL 264

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

INTRODUCED BY

Cisco McSorley

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 the following energy
15 sources:

- 16 (a) solar light;
- 17 (b) solar heat;
- 18 (c) wind; or
- 19 (d) any other source of renewable
20 energy that is designated as a qualified energy resource by
21 rule of the energy, minerals and natural resources department.

22 C. A taxpayer may request certification of
23 eligibility for the renewable energy production tax credit
24 from the energy, minerals and natural resources department,
25 which shall determine if the applicant is a qualified energy

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

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

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1 determine the amount of the tax credit due the taxpayer.

2 E. Once a taxpayer has been granted a renewable
3 energy production tax credit for a given facility, that
4 taxpayer shall be allowed to retain its original date of
5 application for tax credits for that facility until either the
6 facility goes out of production for more than six consecutive
7 months in a year or until the facility's ten-year eligibility
8 has expired.

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

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

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