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SENATE BILL 7

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Carlos R. Cisneros and Carl Trujillo

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; CREATING THE HYDROGEN FUEL PRODUCTION  
CORPORATE INCOME TAX CREDIT.

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] HYDROGEN FUEL PRODUCTION CORPORATE INCOME  
TAX CREDIT.--

A. Prior to January 1, 2021, a taxpayer that files  
a New Mexico corporate income tax return may claim the hydrogen  
fuel production corporate income tax credit if the taxpayer  
holds title to a qualified hydrogen fuel or hydrogen resource  
generator that produces and sells hydrogen. The tax credit  
provided in this section may be referred to as the "hydrogen  
fuel production corporate income tax credit".

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1           B. The purpose of the hydrogen fuel production  
2 corporate income tax credit is to stimulate the production and  
3 sale of hydrogen as a renewable fuel and energy source.

4           C. The tax credit provided in this section shall  
5 not be claimed in addition to the renewable energy production  
6 tax credit pursuant to Section 7-2-18.18 or 7-2A-19 NMSA 1978.

7           D. The amount of the tax credit shall equal the  
8 cost of generating the hydrogen but shall not exceed one dollar  
9 (\$1.00) per kilogram of the first four million kilograms of  
10 hydrogen fuel produced and sold by the qualified hydrogen fuel  
11 or hydrogen resource generator in the taxable year.

12           E. The department may allow a maximum annual  
13 aggregate of four million dollars (\$4,000,000) in hydrogen fuel  
14 production corporate income tax credits per year. Applications  
15 for the tax credit shall be considered in the order received by  
16 the department.

17           F. A taxpayer shall claim a hydrogen fuel  
18 production corporate income tax credit within five years of the  
19 date that the qualified hydrogen fuel or hydrogen resource  
20 generator begins producing hydrogen. To receive a hydrogen  
21 fuel production corporate income tax credit, a taxpayer shall  
22 apply to the department on forms and in the manner prescribed  
23 by the department. The application shall include a  
24 certification made pursuant to Subsection G of this section.

25           G. A taxpayer may apply for a certificate of

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1 eligibility as a qualified hydrogen fuel or hydrogen resource  
2 generator from the energy, minerals and natural resources  
3 department. Applications shall be considered in the order  
4 received. If the energy, minerals and natural resources  
5 department determines that the taxpayer is a qualified hydrogen  
6 fuel or hydrogen resource generator, the energy, minerals and  
7 natural resources department may issue a certificate of  
8 eligibility to the taxpayer. The energy, minerals and natural  
9 resources department may issue rules governing the procedure  
10 for administering the provisions of this subsection.

11 H. No later than October 30 of each year, the  
12 department shall compile a report in regard to the hydrogen  
13 fuel production corporate income tax credit pursuant to the  
14 Corporate Income and Franchise Tax Act for the revenue  
15 stabilization and tax policy committee that includes:

16 (1) the number of people applying for a  
17 hydrogen fuel production corporate income tax credit;

18 (2) the number and amount of hydrogen fuel  
19 production corporate income tax credits allowed;

20 (3) the number of new jobs created in New  
21 Mexico in the taxable year by the construction and installation  
22 of hydrogen fuel or hydrogen resource generator systems, the  
23 level of production of hydrogen fuel by qualified hydrogen fuel  
24 or hydrogen resource generators claiming the tax credit and the  
25 total production level in the state;

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1 (4) the number of people employed in the  
2 generation of hydrogen for fuel or by hydrogen resource  
3 generators and the average and median wages of those employed;  
4 and

5 (5) any other data or information deemed  
6 necessary by the department to aid the committee in determining  
7 the impact of the hydrogen fuel production corporate income tax  
8 credit.

9 I. That portion of a hydrogen fuel production  
10 corporate income tax credit that exceeds a taxpayer's tax  
11 liability in the taxable year in which the tax credit is  
12 claimed may be carried forward for a maximum of five  
13 consecutive taxable years.

14 J. A taxpayer allowed a hydrogen fuel production  
15 corporate income tax credit pursuant to this section shall  
16 report the amount of the tax credit to the department in a  
17 manner required by the department.

18 K. The department shall compile an annual report on  
19 the hydrogen fuel production corporate income tax credit  
20 pursuant to this section that shall include the number of  
21 taxpayers approved by the department to receive the tax credit,  
22 the aggregate amount of tax credits approved and any other  
23 information necessary to evaluate the effectiveness of the tax  
24 credit. Beginning in 2017 and every three years thereafter  
25 that the tax credit is in effect, the department shall compile

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1 and present the annual reports to the revenue stabilization and  
2 tax policy committee and the legislative finance committee with  
3 an analysis of the effectiveness and cost of the tax credit and  
4 whether the tax credit is performing the purpose for which it  
5 was created.

6 L. As used in this section, "qualified hydrogen  
7 fuel or hydrogen resource generator" means a hydrogen fuel  
8 generator or hydrogen resource generator that uses renewably  
9 powered thermolysis or electrolysis that is:

- 10 (1) solar-light-derived;
- 11 (2) solar-heat-derived;
- 12 (3) plasma-derived;
- 13 (4) wind-derived;
- 14 (5) hydroelectric-derived; or
- 15 (6) geothermal-derived."

16 SECTION 2. APPLICABILITY.--The provisions of this act  
17 apply to taxable years beginning on or after January 1, 2015.