

HOUSE BILL 186

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Susan K. Herrera and Rebecca Dow
and Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO TAXATION; INCREASING THE AMOUNT OF CREDIT FOR THE CONVEYANCE OF PROPERTY FOR CONSERVATION OR PRESERVATION PURPOSES PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; PROVIDING FOR THE DETERMINATION OF HOW MUCH OF THE CREDITS MAY BE CLAIMED BY TAXPAYERS WHO HAVE AN OWNERSHIP INTEREST IN CERTAIN BUSINESS ENTITIES; MAKING THE CREDITS REFUNDABLE.

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

SECTION 1. Section 7-2-18.10 NMSA 1978 (being Laws 2003, Chapter 331, Section 7, as amended) is amended to read:

"7-2-18.10. TAX CREDIT--CERTAIN CONVEYANCES OF REAL PROPERTY.--

A. There shall be allowed as a credit against the tax liability imposed by the Income Tax Act, an amount equal to .232289.7

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[fifty percent] the following percentages of the fair market value of land or interest in land that is conveyed for the purpose of open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation as an unconditional donation in perpetuity by the landowner or taxpayer to a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes:

(1) fifty percent for land or an interest in land conveyed prior to July 1, 2026; and

(2) eighty percent for land or an interest in land conveyed on or after July 1, 2026.

B. The fair market value of qualified donations made pursuant to this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser", as those terms are defined under applicable federal laws and regulations governing charitable contributions.

[B.] C. The amount of the credit that may be claimed by a taxpayer shall not exceed:

(1) one hundred thousand dollars (\$100,000) for a conveyance made prior to January 1, 2008; [and shall not exceed]

(2) two hundred fifty thousand dollars (\$250,000) for a conveyance made on or after [that date. In addition, in a taxable year, the credit used may not exceed the .232289.7

amount of individual income tax otherwise due. A portion of the credit that is unused in a taxable year may be carried over for a maximum of twenty consecutive taxable years following the taxable year in which the credit originated until fully expended. A taxpayer may claim only one tax credit per taxable year] January 1, 2008 but prior to July 1, 2026; and

(3) two million dollars (\$2,000,000) for a conveyance made on or after July 1, 2026.

D. A taxpayer may only qualify for one tax credit per taxable year. If multiple taxpayers are record owners of a qualified donation, each taxpayer that is a record owner of the qualified donation may claim a tax credit in proportion to that taxpayer's ownership interest; provided that the total credit claimed by all record owners shall not exceed the value that would accrue if the qualified donation was made by a single owner.

E. The total credit claimed by all members of a partnership or limited liability company shall not exceed the value that would accrue if the conveyance was made by a single individual.

[G.] F. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction or watershed preservation

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1 restriction, pursuant to the Land Use Easement Act and provided
2 that the less-than-fee interest qualifies as a charitable
3 contribution deduction under Section 170(h) of the Internal
4 Revenue Code. Dedications of land for open space for the
5 purpose of fulfilling density requirements to obtain
6 subdivision or building permits shall not be considered as
7 qualified donations pursuant to the Land Conservation
8 Incentives Act. The portion of the tax credit that exceeds a
9 taxpayer's income tax liability in the taxable year in which
10 the credit is claimed shall be refunded to the taxpayer.

11 [D.] G. Qualified donations shall be eligible for
12 the tax credit if the donations are made to the state of New
13 Mexico, a political subdivision thereof or a charitable
14 organization described in Section 501(c)(3) of the Internal
15 Revenue Code and that meets the requirements of Section
16 170(h)(3) of that code.

17 [E.] H. To be eligible for treatment as qualified
18 donations under this section, land or interests in lands must
19 be certified by the secretary of energy, minerals and natural
20 resources as fulfilling the purposes as set forth in Section
21 75-9-2 NMSA 1978. The use and protection of the lands, or
22 interests therein, for open space, natural area protection,
23 biodiversity habitat conservation, land preservation,
24 agricultural preservation, historic preservation or similar use
25 or purpose of the property shall be assured in perpetuity.

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1 [F.] I. A taxpayer may apply for certification of
2 eligibility for the tax credit provided by this section from
3 the energy, minerals and natural resources department. If the
4 energy, minerals and natural resources department determines
5 that the application meets the requirements of this section and
6 that the property conveyed will not adversely affect the
7 property rights of contiguous landowners, it shall issue a
8 certificate of eligibility to the taxpayer, which shall include
9 a calculation of the maximum amount of tax credit for which the
10 taxpayer would be eligible. The energy, minerals and natural
11 resources department may issue rules governing the procedure
12 for administering the provisions of this subsection.

13 [G.] J. To receive a credit pursuant to this
14 section, a person shall apply to the ~~[taxation and revenue]~~
15 department on forms and in the manner prescribed by the
16 department. The application shall include a certificate of
17 eligibility issued by the energy, minerals and natural
18 resources department pursuant to Subsection [F] I of this
19 section. If all of the requirements of this section have been
20 complied with, the ~~[taxation and revenue]~~ department shall
21 issue to the applicant a document granting the tax credit. The
22 document shall be numbered for identification and declare its
23 date of issuance and the amount of the tax credit allowed for
24 the qualified donation made pursuant to this section.

25 [H.] K. The tax credit represented by a document

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1 issued pursuant to Subsection [G] J of this section for a
2 conveyance made on or after January 1, 2008, or an increment of
3 that tax credit, may be sold, exchanged or otherwise
4 transferred and may be carried forward for a period of twenty
5 taxable years following the taxable year in which the credit
6 originated until fully expended. A tax credit or increment of
7 a tax credit may only be transferred once. The credit may be
8 transferred to any taxpayer. A taxpayer to whom a credit has
9 been transferred may use the credit for the taxable year in
10 which the transfer occurred and ~~unused amounts may be carried~~
11 ~~forward to succeeding taxable years, but in no event may the~~
12 ~~transferred credit be used more than twenty years after it was~~
13 ~~originally issued] the portion of the tax credit that exceeds a~~
14 ~~taxpayer's income tax liability in the taxable year in which~~
15 ~~the credit is claimed shall be refunded to the taxpayer.~~

16 [I.] L. A tax credit issued pursuant to this
17 section shall be transferred through a qualified intermediary.
18 The qualified intermediary shall, by means of a sworn notarized
19 statement, notify the ~~[taxation and revenue]~~ department of the
20 transfer and of the date of the transfer within ten days of the
21 transfer. Credits shall only be transferred in increments of
22 ten thousand dollars (\$10,000) or more. The qualified
23 intermediary shall keep an account of the credits and have the
24 authority to issue sub-numbers registered with the ~~[taxation~~
25 ~~and revenue]~~ department and traceable to the original credit.

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1 [J.] M. If a charitable deduction is claimed on the
2 taxpayer's federal income tax for any contribution for which
3 the credit provided by this section is claimed, the taxpayer's
4 itemized deductions for New Mexico income tax shall be reduced
5 by the amount of the deduction for the contribution in order to
6 determine the New Mexico taxable income of the taxpayer.

7 [K.] N. For the purposes of this section:

8 (1) "qualified intermediary" does not include
9 a person who has been previously convicted of a felony, who has
10 had a professional license revoked, who is engaged in the
11 practice defined in Section 61-28B-3 NMSA 1978 and who is
12 identified in Section 61-29-2 NMSA 1978, and does not include
13 any entity owned wholly or in part or employing any of the
14 foregoing persons; and

15 (2) "taxpayer" means a citizen or resident of
16 the United States, a domestic partnership, a limited liability
17 company, a domestic corporation, an estate, including a foreign
18 estate, or a trust."

19 **SECTION 2.** Section 7-2A-8.9 NMSA 1978 (being Laws 2003,
20 Chapter 331, Section 8, as amended) is amended to read:

21 **"7-2A-8.9. TAX CREDIT--CERTAIN CONVEYANCES OF REAL
22 PROPERTY.--**

23 A. There shall be allowed as a credit against the
24 tax liability imposed by the Corporate Income and Franchise Tax
25 Act an amount equal to [~~fifty percent~~] the following

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1 percentages of the fair market value of land or interest in
2 land that is conveyed for the purpose of open space, natural
3 resource or biodiversity conservation, agricultural
4 preservation or watershed or historic preservation as an
5 unconditional donation in perpetuity by the landowner or
6 taxpayer to a public or private conservation agency eligible to
7 hold the land and interests therein for conservation or
8 preservation purposes:

9 (1) fifty percent for land or an interest in
10 land conveyed prior to July 1, 2026; and

11 (2) eighty percent for land or an interest in
12 land conveyed on or after July 1, 2026.

13 B. The fair market value of qualified donations
14 made pursuant to this section shall be substantiated by a
15 "qualified appraisal" prepared by a "qualified appraiser", as
16 those terms are defined under applicable federal laws and
17 regulations governing charitable contributions.

18 [B.] C. The amount of the credit that may be
19 claimed by a taxpayer shall not exceed:

20 (1) one hundred thousand dollars (\$100,000)
21 for a conveyance made prior to January 1, 2008; [~~and shall not~~
22 ~~exceed~~]
23 (2) two hundred fifty thousand dollars

24 (\$250,000) for a conveyance made on or after [~~that date. In~~
25 ~~addition, in a taxable year, the credit used may not exceed the~~
26 .232289.7

amount of corporate income tax otherwise due. A portion of the credit that is unused in a taxable year may be carried over for a maximum of twenty consecutive taxable years following the taxable year in which the credit originated until fully expended. A taxpayer may claim only one tax credit per taxable year] January 1, 2008 but prior to July 1, 2026; and

(3) two million dollars (\$2,000,000) for a conveyance made on or after July 1, 2026.

D. A taxpayer may only qualify for one tax credit per taxable year. If multiple taxpayers are record owners of a qualified donation, each taxpayer that is a record owner of the qualified donation may claim a tax credit in proportion to that taxpayer's ownership interest; provided that the total credit claimed by all record owners shall not exceed the value that would accrue if the qualified donation was made by a single owner.

[E.] E. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to the Land Use Easement Act; provided that the less-than-fee interest qualifies as a charitable contribution deduction under Section 170(h) of the Internal Revenue Code. Dedications of land for open space for the

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purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations pursuant to the Land Conservation Incentives Act. The portion of the tax credit that exceeds a taxpayer's corporate income tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

[D.] F. Qualified donations shall be eligible for the tax credit if the donations are made to the state of New Mexico, a political subdivision thereof or a charitable organization described in Section 501(c)(3) of the Internal Revenue Code and that meets the requirements of Section 170(h)(3) of that code.

[E.] G. To be eligible for treatment as qualified donations under this section, land or interests in lands must be certified by the secretary of energy, minerals and natural resources as fulfilling the purposes as set forth in Section [5-9-2] 75-9-2 NMSA 1978. The use and protection of the lands, or interests therein, for open space, natural area protection, biodiversity habitat conservation, land preservation, agricultural preservation, historic preservation or similar use or purpose of the property shall be assured in perpetuity.

[F.] H. A taxpayer may apply for certification of eligibility for the tax credit provided by this section from the energy, minerals and natural resources department. If the

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1 energy, minerals and natural resources department determines
2 that the application meets the requirements of this section and
3 that the property conveyed will not adversely affect the
4 property rights of contiguous landowners, it shall issue a
5 certificate of eligibility to the taxpayer, which shall include
6 a calculation of the maximum amount of tax credit for which the
7 taxpayer would be eligible. The energy, minerals and natural
8 resources department may issue rules governing the procedure
9 for administering the provisions of this subsection.

10 [G.] I. To receive a credit pursuant to this
11 section, a person shall apply to the [taxation and revenue]
12 department on forms and in the manner prescribed by the
13 department. The application shall include a certificate of
14 eligibility issued by the energy, minerals and natural
15 resources department pursuant to Subsection [F] H of this
16 section. If all of the requirements of this section have been
17 complied with, the [taxation and revenue] department shall
18 issue to the applicant a document granting the tax credit. The
19 document shall be numbered for identification and declare its
20 date of issuance and the amount of the tax credit allowed for
21 the qualified donation made pursuant to this section.

22 [H.] J. The tax credit represented by a document
23 issued pursuant to Subsection [G] I of this section for a
24 conveyance made on or after January 1, 2008, or an increment of
25 that tax credit, may be sold, exchanged or otherwise

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1 transferred and may be carried forward for a period of twenty
2 taxable years following the taxable year in which the credit
3 originated until fully expended. A tax credit or increment of
4 a tax credit may only be transferred once. The credit may be
5 transferred to any taxpayer. A taxpayer to whom a credit has
6 been transferred may use the credit for the taxable year in
7 which the transfer occurred and ~~unused amounts may be carried~~
~~forward to succeeding taxable years, but in no event may the~~
~~transferred credit be used more than twenty years after it was~~
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~~taxpayer's corporate income tax liability in the taxable year~~
~~in which the credit is claimed shall be refunded to the~~
~~taxpayer.~~

14 [I.] K. A tax credit issued pursuant to this
15 section shall be transferred through a qualified intermediary.
16 The qualified intermediary shall, by means of a sworn notarized
17 statement, notify the ~~[taxation and revenue]~~ department of the
18 transfer and of the date of the transfer within ten days of the
19 transfer. Credits shall only be transferred in increments of
20 ten thousand dollars (\$10,000) or more. The qualified
21 intermediary shall keep an account of the credits and have the
22 authority to issue sub-numbers registered with the ~~[taxation~~
~~and revenue]~~ department and traceable to the original credit.

24 [J.] L. If a charitable deduction is claimed on the
25 taxpayer's federal income tax for any contribution for which

1 the credit provided by this section is claimed, the taxpayer's
2 itemized deductions for New Mexico income tax shall be reduced
3 by the amount of the deduction for the contribution in order to
4 determine the New Mexico taxable income of the taxpayer.

5 [K.] M. For the purposes of this section:

6 (1) "qualified intermediary" does not include
7 a person who has been previously convicted of a felony, who has
8 had a professional license revoked, who is engaged in the
9 practice defined in Section 61-28B-3 NMSA 1978 and who is
10 identified in Section 61-29-2 NMSA 1978, and does not include
11 any entity owned wholly or in part or employing any of the
12 foregoing persons; and

13 (2) "taxpayer" means a citizen or resident of
14 the United States, a domestic partnership, a limited liability
15 company, a domestic corporation, an estate, including a foreign
16 estate, or a trust."

17 **SECTION 3. APPLICABILITY.--**The provisions of this act
18 apply to taxable years beginning on or after January 1, 2026.

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