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HOUSE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

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; CLARIFYING HOW MUCH OF THE
CREDITS MAY BE CLAIMED BY TAXPAYERS WHO ARE MARRIED AND FILE
SEPARATE RETURNS AND 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
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1 ~~[fifty]~~ eighty percent of the fair market value of land or
2 interest in land that is conveyed on or after January 1, 2026
3 for the purpose of open space, natural resource or biodiversity
4 conservation, agricultural preservation or watershed or
5 historic preservation as an unconditional donation in
6 perpetuity by the landowner or taxpayer to a public or private
7 conservation agency eligible to hold the land and interests
8 therein for conservation or preservation purposes. The fair
9 market value of qualified donations made pursuant to this
10 section shall be substantiated by a "qualified appraisal"
11 prepared by a "qualified appraiser", as those terms are defined
12 under applicable federal laws and regulations governing
13 charitable contributions.

14 B. The amount of the credit that may be claimed by
15 a taxpayer shall not exceed ~~[one hundred thousand dollars~~
16 ~~(\$100,000) for a conveyance made prior to January 1, 2008 and~~
17 ~~shall not exceed two hundred fifty thousand dollars (\$250,000)~~
18 ~~for a conveyance made on or after that date]~~ two million
19 dollars (\$2,000,000) per conveyance. In addition, in a taxable
20 year, the credit used may not exceed the amount of individual
21 income tax otherwise due. A portion of the credit that is
22 unused in a taxable year may be carried over for a maximum of
23 twenty consecutive taxable years following the taxable year in
24 which the credit originated until fully expended. A taxpayer
25 may claim only one tax credit per taxable year.

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1 C. Qualified donations shall include the conveyance
2 in perpetuity of a fee interest in real property or a less-
3 than-fee interest in real property, such as a conservation
4 restriction, preservation restriction, agricultural
5 preservation restriction or watershed preservation restriction,
6 pursuant to the Land Use Easement Act and provided that the
7 less-than-fee interest qualifies as a charitable contribution
8 deduction under Section 170(h) of the Internal Revenue Code.
9 Dedications of land for open space for the purpose of
10 fulfilling density requirements to obtain subdivision or
11 building permits shall not be considered as qualified donations
12 pursuant to the Land Conservation Incentives Act.

13 D. Qualified donations shall be eligible for the
14 tax credit if the donations are made to the state of New
15 Mexico, a political subdivision thereof or a charitable
16 organization described in Section 501(c)(3) of the Internal
17 Revenue Code and that meets the requirements of Section
18 170(h)(3) of that code.

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

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1 agricultural preservation, historic preservation or similar use
2 or purpose of the property shall be assured in perpetuity.

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

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

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1 donation made pursuant to this section.

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

16 I. A tax credit issued pursuant to this section
17 shall be transferred through a qualified intermediary. The
18 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. 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. That portion of tax credit that exceeds a
8 taxpayer's income tax liability in the taxable year in which
9 the credit is claimed shall be refunded to the taxpayer.

10 L. Married individuals filing separate returns for
11 a taxable year for which they could have filed a joint return
12 may each claim only one-half of the credit that would have been
13 claimed on a joint return.

14 M. A taxpayer may be allocated the right to claim a
15 credit in proportion to the taxpayer's ownership interest if
16 the taxpayer owns an interest in a business entity that is
17 taxed for federal income tax purposes as a partnership or
18 limited liability company and that business entity has met all
19 of the requirements to be eligible for the credit. The total
20 credit claimed by all members of the partnership or limited
21 liability company shall not exceed the allowable credit
22 pursuant to this section.

23 N. The tax credit provided by this section shall be
24 included in the tax expenditure budget pursuant to Section
25 7-1-84 NMSA 1978, including the annual aggregate cost of the

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1 tax credit.

2 [~~K-~~] O. For the purposes of this section:

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

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

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

16 "7-2A-8.9. TAX CREDIT--CERTAIN CONVEYANCES OF REAL
17 PROPERTY.--

18 A. There shall be allowed as a credit against the
19 tax liability imposed by the Corporate Income and Franchise Tax
20 Act an amount equal to [~~fifty~~] eighty percent of the fair
21 market value of land or interest in land that is conveyed on or
22 after January 1, 2026 for the purpose of open space, natural
23 resource or biodiversity conservation, agricultural
24 preservation or watershed or historic preservation as an
25 unconditional donation in perpetuity by the landowner or

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1 taxpayer to a public or private conservation agency eligible to
2 hold the land and interests therein for conservation or
3 preservation purposes. The fair market value of qualified
4 donations made pursuant to this section shall be substantiated
5 by a "qualified appraisal" prepared by a "qualified appraiser",
6 as those terms are defined under applicable federal laws and
7 regulations governing charitable contributions.

8 B. The amount of the credit that may be claimed by
9 a taxpayer shall not exceed [~~one hundred thousand dollars~~
10 ~~(\$100,000) for a conveyance made prior to January 1, 2008 and~~
11 ~~shall not exceed two hundred fifty thousand dollars (\$250,000)~~
12 ~~for a conveyance made on or after that date]~~ two million
13 dollars (\$2,000,000) per conveyance. In addition, in a taxable
14 year, the credit used may not exceed the amount of corporate
15 income tax otherwise due. A portion of the credit that is
16 unused in a taxable year may be carried over for a maximum of
17 twenty consecutive taxable years following the taxable year in
18 which the credit originated until fully expended. A taxpayer
19 may claim only one tax credit per taxable year.

20 C. Qualified donations shall include the conveyance
21 in perpetuity of a fee interest in real property or a less-
22 than-fee interest in real property, such as a conservation
23 restriction, preservation restriction, agricultural
24 preservation restriction or watershed preservation restriction,
25 pursuant to the Land Use Easement Act; provided that the less-

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1 than-fee interest qualifies as a charitable contribution
2 deduction under Section 170(h) of the Internal Revenue Code.
3 Dedications of land for open space for the purpose of
4 fulfilling density requirements to obtain subdivision or
5 building permits shall not be considered as qualified donations
6 pursuant to the Land Conservation Incentives Act.

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

13 E. To be eligible for treatment as qualified
14 donations under this section, land or interests in lands must
15 be certified by the secretary of energy, minerals and natural
16 resources as fulfilling the purposes as set forth in Section
17 [~~5-9-2~~] 75-9-2 NMSA 1978. The use and protection of the lands,
18 or interests therein, for open space, natural area protection,
19 biodiversity habitat conservation, land preservation,
20 agricultural preservation, historic preservation or similar use
21 or purpose of the property shall be assured in perpetuity.

22 F. A taxpayer may apply for certification of
23 eligibility for the tax credit provided by this section from
24 the energy, minerals and natural resources department. If the
25 energy, minerals and natural resources department determines

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

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

21 H. The tax credit represented by a document issued
22 pursuant to Subsection G of this section for a conveyance made
23 on or after January 1, 2008, or an increment of that tax
24 credit, may be sold, exchanged or otherwise transferred and may
25 be carried forward for a period of twenty taxable years

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1 following the taxable year in which the credit originated until
2 fully expended. A tax credit or increment of a tax credit may
3 only be transferred once. The credit may be transferred to any
4 taxpayer. A taxpayer to whom a credit has been transferred may
5 use the credit for the taxable year in which the transfer
6 occurred and unused amounts may be carried forward to
7 succeeding taxable years, but in no event may the transferred
8 credit be used more than twenty years after it was originally
9 issued.

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

20 J. If a charitable deduction is claimed on the
21 taxpayer's federal income tax for any contribution for which
22 the credit provided by this section is claimed, the taxpayer's
23 itemized deductions for New Mexico income tax shall be reduced
24 by the amount of the deduction for the contribution in order to
25 determine the New Mexico taxable income of the taxpayer.

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1 K. That portion of tax credit that exceeds a
2 taxpayer's corporate income tax liability in the taxable year
3 in which the credit is claimed shall be refunded to the
4 taxpayer.

5 L. The tax credit provided by this section shall be
6 included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978, including the annual aggregate cost of the
8 tax credit.

9 ~~[K-]~~ M. For the purposes of this section:

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

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

21 **SECTION 3. APPLICABILITY.**--The provisions of this act
22 apply to taxable years beginning on or after January 1, 2026
23 and property conveyances made on or after January 1, 2026.