

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 258

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO TAXATION; PROVIDING FOR REVIEW OF CERTAIN TAX CREDITS.

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

SECTION 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] TAX CREDITS--TAXPAYER REPORTING REQUIREMENTS.--A taxpayer allowed a credit by the department pursuant to Section 7-2-18.2, 7-2-18.10, 7-2-18.11, 7-2-18.14, 7-2-18.17 through 7-2-18.19, 7-2-18.22 or 7-2-18.24 NMSA 1978, or any other tax credit enacted pursuant to the Income Tax Act after January 1, 2012, shall report annually by June 30 to the department on the activities of the taxpayer in the preceding calendar year on a form developed by the department to obtain information necessary to analyze the effectiveness of the

.189003.1

underscoring material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 credit, determine if the credit is being used for the purpose
2 for which it was created and assess whether the credit is cost-
3 effective."

4 SECTION 2. Section 7-2-18.2 NMSA 1978 (being Laws 1984,
5 Chapter 34, Section 1, as amended) is amended to read:

6 "7-2-18.2. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--
7 REFUND.--

8 A. Tax credits for the preservation of cultural
9 property may be claimed as follows:

10 (1) to encourage the restoration,
11 rehabilitation and preservation of cultural properties, a
12 taxpayer who files an individual New Mexico income tax return
13 and who is not a dependent of another individual and who is the
14 owner of a cultural property listed on the official New Mexico
15 register of cultural properties, with the taxpayer's consent,
16 may claim a credit not to exceed a maximum aggregate of twenty-
17 five thousand dollars (\$25,000) in an amount equal to one-half
18 of the cost of restoration, rehabilitation or preservation of a
19 cultural property listed on the official New Mexico register;
20 or

21 (2) if a cultural property, whose owner may
22 otherwise claim the credit set forth in Paragraph (1) of this
23 subsection is also located within an arts and cultural district
24 certified by the state or a municipality pursuant to the Arts
25 and Cultural District Act, the owner of that cultural property

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 may claim a credit not to exceed fifty thousand dollars
2 (\$50,000), including any credit claimed pursuant to Paragraph
3 (1) of this subsection, in an amount equal to one-half of the
4 cost of restoration, rehabilitation or preservation of the
5 cultural property.

6 B. The taxpayer may claim the credit if:

7 (1) the taxpayer submitted a plan and
8 specifications for restoration, rehabilitation or preservation
9 to the committee and received approval from the committee for
10 the plan and specifications prior to commencement of the
11 restoration, rehabilitation or preservation;

12 (2) the taxpayer received certification from
13 the committee after completing the restoration, rehabilitation
14 or preservation, or committee-approved phase, that it conformed
15 to the plan and specifications and preserved and maintained
16 those qualities of the property that made it eligible for
17 inclusion in the official register; and

18 (3) the project is completed within twenty-
19 four months of the date the project is approved by the
20 committee in accordance with Paragraph (1) of this subsection.

21 C. A taxpayer may claim the credit provided in this
22 section for each taxable year in which restoration,
23 rehabilitation or preservation is carried out. Except as
24 provided in Subsection F of this section, claims for the credit
25 provided in this section shall be limited to three consecutive

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 years, and the maximum aggregate credit allowable shall not
2 exceed twenty-five thousand dollars (\$25,000) if governed by
3 Paragraph (1) of Subsection A of this section, or fifty
4 thousand dollars (\$50,000) if governed by Paragraph (2) of
5 Subsection A of this section, for any single restoration,
6 rehabilitation or preservation project for any cultural
7 property listed on the official New Mexico register certified
8 by the committee.

9 D. A husband and wife who file separate returns for
10 a taxable year in which they could have filed a joint return
11 may each claim only one-half of the credit that would have been
12 allowed on a joint return.

13 E. A taxpayer who otherwise qualifies and claims a
14 credit on a restoration, rehabilitation or preservation project
15 on property owned by a partnership of which the taxpayer is a
16 member may claim a credit only in proportion to the taxpayer's
17 interest in the partnership. The total credit claimed by all
18 members of the partnership shall not exceed twenty-five
19 thousand dollars (\$25,000) in the aggregate if governed by
20 Paragraph (1) of Subsection A of this section, or fifty
21 thousand dollars (\$50,000) in the aggregate if governed by
22 Paragraph (2) of Subsection A of this section, for any single
23 restoration, rehabilitation or preservation project for any
24 cultural property listed on the official New Mexico register
25 certified by the committee.

.189003.1

underscored material = new
[bracketed material] = delete

1 F. The credit provided in this section may only be
2 deducted from the taxpayer's income tax liability. Any portion
3 of the maximum tax credit provided by this section that remains
4 unused at the end of the taxpayer's taxable year may be carried
5 forward for four consecutive years; provided, however, the
6 total tax credits claimed under this section shall not exceed
7 twenty-five thousand dollars (\$25,000) if governed by Paragraph
8 (1) of Subsection A of this section, or fifty thousand dollars
9 (\$50,000) if governed by Paragraph (2) of Subsection A of this
10 section, for any single restoration, preservation or
11 rehabilitation project for any cultural property listed on the
12 official New Mexico register.

13 G. The historic preservation division shall
14 promulgate regulations for the implementation of Subsection B
15 of this section.

16 H. Beginning in 2014 and at six-year intervals
17 following 2014, the department shall present a report on the
18 tax credit provided pursuant to this section to the revenue
19 stabilization and tax policy committee for review. The revenue
20 stabilization and tax policy committee, with the aid of the
21 department and the cultural affairs department, shall determine
22 if a need remains for the credit, if the credit is effectively
23 being used for the purpose for which it was created and if the
24 use of the credit is cost-effective. The credit may be
25 proposed for repeal or amendment if it is found by the revenue

.189003.1

underscored material = new
[bracketed material] = delete

1 stabilization and tax policy committee to be ineffective, more
2 costly than is warranted by the purpose for which the credit
3 was proposed or unused or otherwise no longer needed.

4 [H.] I. As used in this section:

5 (1) "committee" means the cultural properties
6 review committee created in Section 18-6-4 NMSA 1978; and

7 (2) "historic preservation division" means the
8 historic preservation division of the cultural affairs
9 department created in Section 18-6-8 NMSA 1978."

10 SECTION 3. Section 7-2-18.10 NMSA 1978 (being Laws 2003,
11 Chapter 331, Section 7, as amended) is amended to read:

12 "7-2-18.10. TAX CREDIT--CERTAIN CONVEYANCES OF REAL
13 PROPERTY.--

14 A. There shall be allowed as a credit against the
15 tax liability imposed by the Income Tax Act, an amount equal to
16 fifty percent of the fair market value of land or interest in
17 land that is conveyed for the purpose of open space, natural
18 resource or biodiversity conservation, agricultural
19 preservation or watershed or historic preservation as an
20 unconditional donation in perpetuity by the landowner or
21 taxpayer to a public or private conservation agency eligible to
22 hold the land and interests therein for conservation or
23 preservation purposes. The fair market value of qualified
24 donations made pursuant to this section shall be substantiated
25 by a "qualified appraisal" prepared by a "qualified appraiser",

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 as those terms are defined under applicable federal laws and
2 regulations governing charitable contributions.

3 B. The amount of the credit that may be claimed by
4 a taxpayer shall not exceed one hundred thousand dollars
5 (\$100,000) for a conveyance made prior to January 1, 2008 and
6 shall not exceed two hundred fifty thousand dollars (\$250,000)
7 for a conveyance made on or after that date. In addition, in a
8 taxable year, the credit used may not exceed the amount of
9 individual income tax otherwise due. A portion of the credit
10 that is unused in a taxable year may be carried over for a
11 maximum of twenty consecutive taxable years following the
12 taxable year in which the credit originated until fully
13 expended. A taxpayer may claim only one tax credit per taxable
14 year.

15 C. Qualified donations shall include the conveyance
16 in perpetuity of a fee interest in real property or a less-
17 than-fee interest in real property, such as a conservation
18 restriction, preservation restriction, agricultural
19 preservation restriction or watershed preservation restriction,
20 pursuant to the Land Use Easement Act and provided that the
21 less-than-fee interest qualifies as a charitable contribution
22 deduction under Section 170(h) of the Internal Revenue Code.
23 Dedications of land for open space for the purpose of
24 fulfilling density requirements to obtain subdivision or
25 building permits shall not be considered as qualified donations

.189003.1

underscored material = new
~~[bracketed material]~~ = delete

1 pursuant to the Land Conservation Incentives Act.

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

8 E. To be eligible for treatment as qualified
9 donations under this section, land or interests in lands must
10 be certified by the secretary of energy, minerals and natural
11 resources as fulfilling the purposes as set forth in Section
12 75-9-2 NMSA 1978. The use and protection of the lands, or
13 interests therein, for open space, natural area protection,
14 biodiversity habitat conservation, land preservation,
15 agricultural preservation, historic preservation or similar use
16 or purpose of the property shall be assured in perpetuity.

17 F. A taxpayer may apply for certification of
18 eligibility for the tax credit provided by this section from
19 the energy, minerals and natural resources department. If the
20 energy, minerals and natural resources department determines
21 that the application meets the requirements of this section and
22 that the property conveyed will not adversely affect the
23 property rights of contiguous landowners, it shall issue a
24 certificate of eligibility to the taxpayer, which shall include
25 a calculation of the maximum amount of tax credit for which the

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 taxpayer would be eligible. The energy, minerals and natural
2 resources department may issue rules governing the procedure
3 for administering the provisions of this subsection.

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

16 H. The tax credit represented by a document issued
17 pursuant to Subsection G of this section for a conveyance made
18 on or after January 1, 2008, or an increment of that tax
19 credit, may be sold, exchanged or otherwise transferred and may
20 be carried forward for a period of twenty taxable years
21 following the taxable year in which the credit originated until
22 fully expended. A tax credit or increment of a tax credit may
23 only be transferred once. The credit may be transferred to any
24 taxpayer. A taxpayer to whom a credit has been transferred may
25 use the credit for the taxable year in which the transfer

.189003.1

underscored material = new
[bracketed material] = delete

1 occurred and unused amounts may be carried forward to
2 succeeding taxable years, but in no event may the transferred
3 credit be used more than twenty years after it was originally
4 issued.

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

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

21 K. Beginning in 2014 and at six-year intervals
22 following 2014, the department shall present a report on the
23 tax credit provided pursuant to this section to the revenue
24 stabilization and tax policy committee for review. The
25 committee, with the aid of the department and the energy,

.189003.1

underscored material = new
[bracketed material] = delete

1 minerals and natural resources department when warranted, shall
2 determine if a need remains for the credit, if the credit is
3 effectively being used for the purpose for which it was created
4 and if the use of the credit is cost-effective. The credit may
5 be proposed for repeal or amendment if it is found by the
6 committee to be ineffective, more costly than is warranted by
7 the purpose for which the credit was proposed or unused or
8 otherwise no longer needed.

9 ~~[K. For the purposes of]~~ L. As used in this
10 section:

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

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

22 **SECTION 4.** Section 7-2-18.11 NMSA 1978 (being Laws 2003,
23 Chapter 400, Section 1) is amended to read:

24 "7-2-18.11. JOB MENTORSHIP TAX CREDIT.--

25 A. To encourage New Mexico businesses to hire youth

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 participating in career preparation education programs, a
2 taxpayer who files an individual New Mexico income tax return,
3 who is not a dependent of another individual and who is an
4 owner of a New Mexico business may claim a credit in an amount
5 equal to fifty percent of gross wages paid to qualified
6 students who are employed by the business during the taxable
7 year for which the return is filed. The tax credit provided by
8 this section may be referred to as the "job mentorship tax
9 credit".

10 B. A taxpayer who is an owner of a New Mexico
11 business may claim the job mentorship tax credit for each
12 taxable year in which the business employs one or more
13 qualified students. The maximum aggregate credit allowable
14 shall not exceed fifty percent of the gross wages paid to not
15 more than ten qualified students employed by the business for
16 up to three hundred twenty hours of employment of each
17 qualified student in each taxable year for a maximum of three
18 taxable years for each qualified student. In no event shall a
19 taxpayer claim a credit in excess of twelve thousand dollars
20 (\$12,000) in any taxable year. The taxpayer shall certify that
21 hiring the qualified student does not displace or replace a
22 current employee.

23 C. The department shall issue job mentorship tax
24 credit certificates upon request to any accredited New Mexico
25 secondary school that has a school-sanctioned career

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 preparation education program. The maximum number of
2 certificates that may be issued in a school year to any one
3 school is equal to the number of qualified students in the
4 school-sanctioned career preparation education program on
5 October 15 of that school year, as certified by the school
6 principal.

7 D. A job mentorship tax credit certificate may be
8 executed by a school principal with respect to a qualified
9 student, and the executed certificate may be transferred to a
10 New Mexico business that employs that student. By executing
11 the certificate with respect to a student, the school principal
12 certifies that the school has a school-sanctioned career
13 preparation education program and the student is a qualified
14 student.

15 E. To claim the job mentorship tax credit, the
16 taxpayer must submit with respect to each employee for whom the
17 credit is claimed:

18 (1) a properly executed job mentorship tax
19 credit certificate;

20 (2) information required by the secretary with
21 respect to the employee's employment by the business during the
22 taxable year for which the credit is claimed; and

23 (3) information required by the secretary that
24 the employee was not also employed in the same taxable year by
25 another New Mexico business qualifying for and claiming a job

.189003.1

underscored material = new
[bracketed material] = delete

1 mentorship tax credit for that employee pursuant to this
2 section or the Corporate Income and Franchise Tax Act.

3 F. The job mentorship tax credit may only be
4 deducted from the taxpayer's New Mexico income tax liability
5 for the taxable year. Any portion of the maximum credit
6 provided by this section that remains unused at the end of the
7 taxpayer's taxable year may be carried forward for three
8 consecutive taxable years; provided the total credits claimed
9 under this section shall not exceed the maximum allowable
10 pursuant to Subsection B of this section.

11 G. A husband and wife who file separate returns for
12 a taxable year in which they could have filed a joint return
13 may each claim only one-half of the credit that would have been
14 allowed on a joint return.

15 H. A taxpayer who otherwise qualifies for and
16 claims a job mentorship tax credit for employment of qualified
17 students by a partnership, limited partnership, limited
18 liability company, S corporation or other business association
19 of which the taxpayer is a member may claim a credit only in
20 proportion to ~~[his]~~ the taxpayer's interest in the partnership,
21 limited partnership, limited liability company, S corporation
22 or association. The total credit claimed by all members of the
23 business shall not exceed the maximum credit allowable pursuant
24 to Subsection B of this section.

25 I. Beginning in 2014 and at six-year intervals

.189003.1

underscored material = new
[bracketed material] = delete

1 following 2014, the department shall present a report on the
2 job mentorship tax credit to the revenue stabilization and tax
3 policy committee for review. The committee, with the aid of
4 the department and the economic development department when
5 warranted, shall determine if a need remains for the credit, if
6 the credit is effectively being used for the purpose for which
7 it was created and if the use of the credit is cost-effective.
8 The credit may be proposed for repeal or amendment if it is
9 found by the committee to be ineffective, more costly than is
10 warranted by the purpose for which the credit was proposed or
11 unused or otherwise no longer needed.

12 [~~I.~~] J. As used in this section:

13 (1) "career preparation education program"
14 means a work-based learning or school-to-career program
15 designed for secondary school students to create academic and
16 career goals and objectives and find employment in a job
17 meeting those goals and objectives;

18 (2) "New Mexico business" means a partnership,
19 limited partnership, limited liability company treated as a
20 partnership for federal income tax purposes, S corporation or
21 sole proprietorship that carries on a trade or business in New
22 Mexico and that employs in New Mexico fewer than three hundred
23 full-time employees at any one time during the taxable year;
24 and

25 (3) "qualified student" means an individual

.189003.1

underscored material = new
[bracketed material] = delete

1 who is at least fourteen years of age but not more than twenty-
2 one years of age who is attending full time an accredited New
3 Mexico secondary school and who is a participant in a career
4 preparation education program sanctioned by the secondary
5 school."

6 SECTION 5. Section 7-2-18.14 NMSA 1978 (being Laws 2006,
7 Chapter 93, Section 1, as amended) is amended to read:

8 "7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
9 RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
10 MARKET DEVELOPMENT TAX CREDIT.--

11 A. Except as provided in Subsection C of this
12 section, a taxpayer who files an individual New Mexico income
13 tax return for a taxable year beginning on or after
14 January 1, 2006 and who purchases and installs after
15 January 1, 2006 but before December 31, 2016 a solar thermal
16 system or a photovoltaic system in a residence, business or
17 agricultural enterprise in New Mexico owned by that taxpayer
18 may apply for, and the department may allow, a solar market
19 development tax credit of up to ten percent of the purchase
20 and installation costs of the system.

21 B. The total solar market development tax credit
22 allowed for either a photovoltaic system or a solar thermal
23 system shall not exceed nine thousand dollars (\$9,000). The
24 department shall allow solar market development tax credits
25 only for solar thermal systems and photovoltaic systems

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 certified by the energy, minerals and natural resources
2 department.

3 C. Solar market development tax credits may not be
4 claimed or allowed for:

5 (1) a heating system for a swimming pool or
6 a hot tub; or

7 (2) a commercial or industrial photovoltaic
8 system other than an agricultural photovoltaic system on a
9 farm or ranch that is not connected to an electric utility
10 transmission or distribution system.

11 D. The department may allow a maximum annual
12 aggregate of:

13 (1) two million dollars (\$2,000,000) in
14 solar market development tax credits for solar thermal
15 systems; and

16 (2) three million dollars (\$3,000,000) in
17 solar market development tax credits for photovoltaic systems.

18 E. A portion of the solar market development tax
19 credit that remains unused in a taxable year may be carried
20 forward for a maximum of ten consecutive taxable years
21 following the taxable year in which the credit originates
22 until fully expended.

23 F. Prior to July 1, 2006, the energy, minerals and
24 natural resources department shall adopt rules establishing
25 procedures to provide certification of solar thermal systems

.189003.1

underscored material = new
[bracketed material] = delete

1 and photovoltaic systems for purposes of obtaining a solar
2 market development tax credit. The rules shall address
3 technical specifications and requirements relating to safety,
4 code and standards compliance, solar collector orientation and
5 sun exposure, minimum system sizes, system applications and
6 lists of eligible components. The energy, minerals and
7 natural resources department may modify the specifications and
8 requirements as necessary to maintain a high level of system
9 quality and performance.

10 G. Beginning in 2014 and at six-year intervals
11 following 2014, the department shall present a report on the
12 solar market development tax credit to the revenue
13 stabilization and tax policy committee for review. The
14 committee, with the aid of the department and the energy,
15 minerals and natural resources department, shall determine if
16 a need remains for the credit, if the credit is effectively
17 being used for the purpose for which it was created and if the
18 use of the credit is cost-effective. The credit may be
19 proposed for repeal or amendment if it is found by the
20 committee to be ineffective, more costly than is warranted by
21 the purpose for which the credit was proposed or unused or
22 otherwise no longer needed.

23 [~~G.~~] H. As used in this section:

24 (1) "photovoltaic system" means an energy
25 system that collects or absorbs sunlight for conversion into

underscored material = new
[bracketed material] = delete

1 electricity; and

2 (2) "solar thermal system" means an energy
3 system that collects or absorbs solar energy for conversion
4 into heat for the purposes of space heating, space cooling or
5 water heating."

6 SECTION 6. Section 7-2-18.18 NMSA 1978 (being Laws
7 2007, Chapter 204, Section 2) is amended to read:

8 "7-2-18.18. RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

9 A. The tax credit provided in this section may be
10 referred to as the "renewable energy production tax credit".
11 The tax credit provided in this section may not be claimed
12 with respect to the same electricity production for which a
13 tax credit pursuant to Section 7-2A-19 NMSA 1978 has been
14 claimed.

15 B. A taxpayer who files an individual New Mexico
16 income tax return and who is not a dependent of another
17 taxpayer is eligible for the renewable energy production tax
18 credit if the taxpayer:

19 (1) holds title to a qualified energy
20 generator that first produced electricity on or before January
21 1, 2018; or

22 (2) leases property upon which a qualified
23 energy generator operates from a county or municipality under
24 authority of an industrial revenue bond and if the qualified
25 energy generator first produced electricity on or before

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 January 1, 2018.

2 C. The amount of the tax credit shall equal one
3 cent (\$.01) per kilowatt-hour of the first four hundred
4 thousand megawatt-hours of electricity produced by the
5 qualified energy generator in the taxable year using a wind-
6 or biomass-derived qualified energy resource; provided that
7 the total amount of tax credits claimed by all taxpayers for a
8 single qualified energy generator in a taxable year using a
9 wind- or biomass-derived qualified energy resource shall not
10 exceed one cent (\$.01) per kilowatt-hour of the first four
11 hundred thousand megawatt-hours of electricity produced by the
12 qualified energy generator.

13 D. The amount of the tax credit for electricity
14 produced by a qualified energy generator in the taxable year
15 using a solar-light-derived or solar-heat-derived qualified
16 energy resource shall be at the amounts specified in
17 Paragraphs (1) through (10) of this subsection; provided that
18 the total amount of tax credits claimed for a taxable year by
19 all taxpayers for a single qualified energy generator using a
20 solar-light-derived or solar-heat-derived qualified energy
21 resource shall be limited to the first two hundred thousand
22 megawatt-hours of electricity produced by the qualified energy
23 generator in the taxable year:

24 (1) one and one-half cents (\$.015) per
25 kilowatt-hour in the first taxable year in which the qualified

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 energy generator produces electricity using a solar-light-
2 derived or solar-heat-derived qualified energy resource;

3 (2) two cents (\$.02) per kilowatt-hour in
4 the second taxable year in which the qualified energy
5 generator produces electricity using a solar-light-derived or
6 solar-heat-derived qualified energy resource;

7 (3) two and one-half cents (\$.025) per
8 kilowatt-hour in the third taxable year in which the qualified
9 energy generator produces electricity using a solar-light-
10 derived or solar-heat-derived qualified energy resource;

11 (4) three cents (\$.03) per kilowatt-hour in
12 the fourth taxable year in which the qualified energy
13 generator produces electricity using a solar-light-derived or
14 solar-heat- derived qualified energy resource;

15 (5) three and one-half cents (\$.035) per
16 kilowatt-hour in the fifth taxable year in which the qualified
17 energy generator produces electricity using a solar-light-
18 derived or solar-heat-derived qualified energy resource;

19 (6) four cents (\$.04) per kilowatt-hour in
20 the sixth taxable year in which the qualified energy generator
21 produces electricity using a solar-light-derived or solar-
22 heat-derived qualified energy resource;

23 (7) three and one-half cents (\$.035) per
24 kilowatt-hour in the seventh taxable year in which the
25 qualified energy generator produces electricity using a solar-

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 light-derived or solar-heat-derived qualified energy resource;

2 (8) three cents (\$.03) per kilowatt-hour in
3 the eighth taxable year in which the qualified energy
4 generator produces electricity using a solar-light-derived or
5 solar-heat-derived qualified energy resource;

6 (9) two and one-half cents (\$.025) per
7 kilowatt-hour in the ninth taxable year in which the qualified
8 energy generator produces electricity using a solar-light-
9 derived or solar-heat-derived qualified energy resource; and

10 (10) two cents (\$.02) per kilowatt-hour in
11 the tenth taxable year in which the qualified energy generator
12 produces electricity using a solar-light-derived or
13 solar-heat-derived qualified energy resource.

14 E. A taxpayer eligible for a renewable energy
15 production tax credit pursuant to Subsection B of this section
16 shall be eligible for the renewable energy production tax
17 credit for ten consecutive years, beginning on the date the
18 qualified energy generator begins producing electricity.

19 F. As used in this section:

20 (1) "biomass" means organic material that is
21 available on a renewable or recurring basis, including:

22 (a) forest-related materials, including
23 mill residues, logging residues, forest thinnings, slash,
24 brush, low-commercial-value materials or undesirable species,
25 salt cedar and other phreatophyte or woody vegetation removed

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 from river basins or watersheds and woody material harvested
2 for the purpose of forest fire fuel reduction or forest health
3 and watershed improvement;

4 (b) agricultural-related materials,
5 including orchard trees, vineyard, grain or crop residues,
6 including straws and stover, aquatic plants and agricultural
7 processed co-products and waste products, including fats,
8 oils, greases, whey and lactose;

9 (c) animal waste, including manure and
10 slaughterhouse and other processing waste;

11 (d) solid woody waste materials,
12 including landscape or right-of-way tree trimmings, rangeland
13 maintenance residues, waste pallets, crates and manufacturing,
14 construction and demolition wood wastes, excluding
15 pressure-treated, chemically treated or painted wood wastes
16 and wood contaminated with plastic;

17 (e) crops and trees planted for the
18 purpose of being used to produce energy;

19 (f) landfill gas, wastewater treatment
20 gas and biosolids, including organic waste byproducts
21 generated during the wastewater treatment process; and

22 (g) segregated municipal solid waste,
23 excluding tires and medical and hazardous waste;

24 (2) "qualified energy generator" means a
25 facility with at least one megawatt generating capacity

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 located in New Mexico that produces electricity using a
2 qualified energy resource and that sells that electricity to
3 an unrelated person; and

4 (3) "qualified energy resource" means a
5 resource that generates electrical energy by means of a
6 fluidized bed technology or similar low-emissions technology
7 or a zero-emissions generation technology that has substantial
8 long-term production potential and that uses only the
9 following energy sources:

10 (a) solar light;

11 (b) solar heat;

12 (c) wind; or

13 (d) biomass.

14 G. A person that holds title to a facility
15 generating electricity from a qualified energy resource or a
16 person that leases such a facility from a county or
17 municipality pursuant to an industrial revenue bond may
18 request certification of eligibility for the renewable energy
19 production tax credit from the energy, minerals and natural
20 resources department, which shall determine if the facility is
21 a qualified energy generator. The energy, minerals and
22 natural resources department may certify the eligibility of an
23 energy generator only if the total amount of electricity that
24 may be produced annually by all qualified energy generators
25 that are certified pursuant to this section and pursuant to

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 Section 7-2A-19 NMSA 1978 will not exceed a total of two
2 million megawatt-hours plus an additional five hundred
3 thousand megawatt-hours produced by qualified energy
4 generators using a solar-light-derived or solar-heat-derived
5 qualified energy resource. Applications shall be considered
6 in the order received. The energy, minerals and natural
7 resources department may estimate the annual
8 power-generating potential of a generating facility for the
9 purposes of this section. The energy, minerals and natural
10 resources department shall issue a certificate to the
11 applicant stating whether the facility is an eligible
12 qualified energy generator and the estimated annual production
13 potential of the generating facility, which shall be the limit
14 of that facility's energy production eligible for the tax
15 credit for the taxable year. The energy, minerals and natural
16 resources department may issue rules governing the procedure
17 for administering the provisions of this subsection and shall
18 report annually to the appropriate interim legislative
19 committee information that will allow the legislative
20 committee to analyze the effectiveness of the renewable energy
21 production tax credit, including the identity of qualified
22 energy generators, the energy production means used, the
23 amount of energy produced by those qualified energy generators
24 and whether any applications could not be approved due to
25 program limits.

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 H. A taxpayer may be allocated all or a portion of
2 the right to claim a renewable energy production tax credit
3 without regard to proportional ownership interest if:

4 (1) the taxpayer owns an interest in a
5 business entity that is taxed for federal income tax purposes
6 as a partnership;

7 (2) the business entity:

8 (a) would qualify for the renewable
9 energy production tax credit pursuant to Paragraph (1) or (2)
10 of Subsection B of this section;

11 (b) owns an interest in a business
12 entity that is also taxed for federal income tax purposes as a
13 partnership and that would qualify for the renewable energy
14 production tax credit pursuant to Paragraph (1) or (2) of
15 Subsection B of this section; or

16 (c) owns, through one or more
17 intermediate business entities that are each taxed for federal
18 income tax purposes as a partnership, an interest in the
19 business entity described in Subparagraph (b) of this
20 paragraph;

21 (3) the taxpayer and all other taxpayers
22 allocated a right to claim the renewable energy production tax
23 credit pursuant to this subsection own collectively at least a
24 five percent interest in a qualified energy generator;

25 (4) the business entity provides notice of

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 the allocation and the taxpayer's interest to the energy,
2 minerals and natural resources department on forms prescribed
3 by that department; and

4 (5) the energy, minerals and natural
5 resources department certifies the allocation in writing to
6 the taxpayer.

7 I. Upon receipt of notice of an allocation of the
8 right to claim all or a portion of the renewable energy
9 production tax credit, the energy, minerals and natural
10 resources department shall promptly certify the allocation in
11 writing to the recipient of the allocation.

12 J. A husband and wife who file separate returns
13 for a taxable year in which they could have filed a joint
14 return may each claim only one-half of the credit that would
15 have been allowed on a joint return.

16 K. A taxpayer may claim the renewable energy
17 production tax credit by submitting to the taxation and
18 revenue department the certificate issued by the energy,
19 minerals and natural resources department, pursuant to
20 Subsection G or H of this section, documentation showing the
21 taxpayer's interest in the facility, documentation of the
22 amount of electricity produced by the facility in the taxable
23 year and any other information the taxation and revenue
24 department may require to determine the amount of the tax
25 credit due the taxpayer.

.189003.1

underscored material = new
[bracketed material] = delete

1 L. If the requirements of this section have been
2 complied with, the department shall approve the renewable
3 energy production tax credit. The credit may be deducted from
4 a taxpayer's New Mexico income tax liability for the taxable
5 year for which the credit is claimed. If the amount of tax
6 credit exceeds the taxpayer's income tax liability for the
7 taxable year:

8 (1) the excess may be carried forward for a
9 period of five taxable years; or

10 (2) if the tax credit was issued with
11 respect to a qualified energy generator that first produced
12 electricity using a qualified energy resource on or after
13 October 1, 2007, the excess shall be refunded to the taxpayer.

14 M. Once a taxpayer has been granted a renewable
15 energy production tax credit for a given facility, that
16 taxpayer shall be allowed to retain the facility's original
17 date of application for tax credits for that facility until
18 either the facility goes out of production for more than six
19 consecutive months in a year or until the facility's ten-year
20 eligibility has expired.

21 N. Beginning in 2014 and at six-year intervals
22 following 2014, the department shall present a report on the
23 renewable energy production tax credit to the revenue
24 stabilization and tax policy committee for review. The
25 committee, with the aid of the department and the energy,

.189003.1

underscored material = new
[bracketed material] = delete

1 minerals and natural resources department, shall determine if
2 a need remains for the credit, if the credit is effectively
3 being used for the purpose for which it was created and if the
4 use of the credit is cost-effective. The credit may be
5 proposed for repeal or amendment if it is found by the
6 committee to be ineffective, more costly than is warranted by
7 the purpose for which the credit was proposed or unused or
8 otherwise no longer needed."

9 SECTION 7. Section 7-2-18.19 NMSA 1978 (being Laws
10 2007, Chapter 204, Section 3, as amended) is amended to read:

11 "7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

12 A. The tax credit provided by this section may be
13 referred to as the "sustainable building tax credit". The
14 sustainable building tax credit shall be available for the
15 construction in New Mexico of a sustainable building, the
16 renovation of an existing building in New Mexico into a
17 sustainable building or the permanent installation of
18 manufactured housing, regardless of where the housing is
19 manufactured, that is a sustainable building. The tax credit
20 provided in this section may not be claimed with respect to
21 the same sustainable building for which the sustainable
22 building tax credit provided in the Corporate Income and
23 Franchise Tax Act has been claimed.

24 B. A taxpayer who files an income tax return is
25 eligible to be granted a sustainable building tax credit by

.189003.1

1 the department if the taxpayer submits a document issued
2 pursuant to Subsection I of this section with the taxpayer's
3 income tax return.

4 C. The amount of the sustainable building tax
5 credit that may be claimed with respect to a sustainable
6 commercial building shall be calculated based on the
7 certification level the building has achieved in the LEED
8 green building rating system and the amount of qualified
9 occupied square footage in the building, as indicated on the
10 following chart:

11	LEED Rating Level	Qualified	Tax Credit
12		Occupied	per Square
13		Square Footage	Foot
14	LEED-NC Silver	First 10,000	\$3.50
15		Next 40,000	\$1.75
16		Over 50,000	
17		up to 500,000	\$.70
18	LEED-NC Gold	First 10,000	\$4.75
19		Next 40,000	\$2.00
20		Over 50,000	
21		up to 500,000	\$1.00
22	LEED-NC Platinum	First 10,000	\$6.25
23		Next 40,000	\$3.25
24		Over 50,000	
25		up to 500,000	\$2.00

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1	LEED-EB or CS Silver	First 10,000	\$2.50
2		Next 40,000	\$1.25
3		Over 50,000	
4		up to 500,000	\$.50
5	LEED-EB or CS Gold	First 10,000	\$3.35
6		Next 40,000	\$1.40
7		Over 50,000	
8		up to 500,000	\$.70
9	LEED-EB or CS Platinum	First 10,000	\$4.40
10		Next 40,000	\$2.30
11		Over 50,000	
12		up to 500,000	\$1.40
13	LEED-CI Silver	First 10,000	\$1.40
14		Next 40,000	\$.70
15		Over 50,000	
16		up to 500,000	\$.30
17	LEED-CI Gold	First 10,000	\$1.90
18		Next 40,000	\$.80
19		Over 50,000	
20		up to 500,000	\$.40
21	LEED-CI Platinum	First 10,000	\$2.50
22		Next 40,000	\$1.30
23		Over 50,000	
24		up to 500,000	\$.80.

25 D. The amount of the sustainable building tax

.189003.1

underscored material = new
[bracketed material] = delete

1 credit that may be claimed with respect to a sustainable
2 residential building shall be calculated based on the amount
3 of qualified occupied square footage, as indicated on the
4 following chart:

5 Rating System/Level	6 Qualified Occupied	7 Tax Credit per Square Foot
	8 Square Footage	9 Foot
10 LEED-H Silver or Build	11 First 2,000	12 \$5.00
13 Green NM Silver	14 Next 1,000	15 \$2.50
16 LEED-H Gold or Build	17 First 2,000	18 \$6.85
19 Green NM Gold	20 Next 1,000	21 \$3.40
22 LEED-H Platinum or Build	23 First 2,000	24 \$9.00
25 Green NM Emerald	Next 1,000	\$4.45
EPA ENERGY STAR		
Manufactured Housing	Up to 3,000	\$3.00.

26 E. A person that is a building owner may apply
27 for a certificate of eligibility for the sustainable building
28 tax credit from the energy, minerals and natural resources
29 department after the construction, installation or renovation
30 of the sustainable building is complete. Applications shall
31 be considered in the order received. If the energy, minerals
32 and natural resources department determines that the building
33 owner meets the requirements of this subsection and that the
34 building with respect to which the tax credit application is
35 made meets the requirements of this section as a sustainable

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 residential building or a sustainable commercial building,
2 the energy, minerals and natural resources department may
3 issue a certificate of eligibility to the building owner,
4 subject to the limitation in Subsection F of this section.
5 The certificate shall include the rating system certification
6 level awarded to the building, the amount of qualified
7 occupied square footage in the building and a calculation of
8 the maximum amount of sustainable building tax credit for
9 which the building owner would be eligible. The energy,
10 minerals and natural resources department may issue rules
11 governing the procedure for administering the provisions of
12 this subsection. If the certification level for the
13 sustainable residential building is awarded on or after
14 January 1, 2007, the energy, minerals and natural resources
15 department may issue a certificate of eligibility to a
16 building owner who is:

17 (1) the owner of the sustainable residential
18 building at the time the certification level for the building
19 is awarded; or

20 (2) the subsequent purchaser of a
21 sustainable residential building with respect to which no tax
22 credit has been previously claimed.

23 F. The energy, minerals and natural resources
24 department may issue a certificate of eligibility only if the
25 total amount of sustainable building tax credits represented

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 by certificates of eligibility issued by the energy, minerals
2 and natural resources department pursuant to this section and
3 pursuant to the Corporate Income and Franchise Tax Act shall
4 not exceed in any calendar year an aggregate amount of five
5 million dollars (\$5,000,000) with respect to sustainable
6 commercial buildings and an aggregate amount of five million
7 dollars (\$5,000,000) with respect to sustainable residential
8 buildings; provided that no more than one million two hundred
9 fifty thousand dollars (\$1,250,000) of the aggregate amount
10 with respect to sustainable residential buildings shall be
11 for manufactured housing. If for any taxable year, the
12 energy, minerals and natural resources department determines
13 that the applications for sustainable building tax credits
14 with respect to sustainable residential buildings for that
15 taxable year exceed the aggregate limit set in this section,
16 the energy, minerals and natural resources department may
17 issue certificates of eligibility under the aggregate annual
18 limit for sustainable commercial buildings to building owners
19 of multifamily dwelling units that meet the requirements of
20 the energy, minerals and natural resources department and of
21 this section; provided that applications for sustainable
22 building credits for other sustainable commercial buildings
23 total less than the full amount allocated for tax credits for
24 sustainable commercial buildings.

25 G. Installation of a solar thermal system or a

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 photovoltaic system eligible for the solar market development
2 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
3 used as a component of qualification for the rating system
4 certification level used in determining eligibility for the
5 sustainable building tax credit, unless a solar market
6 development tax credit pursuant to Section 7-2-18.14 NMSA
7 1978 has not been claimed with respect to that system and the
8 building owner and the taxpayer claiming the sustainable
9 building tax credit certify that such a tax credit will not
10 be claimed with respect to that system.

11 H. To be eligible for the sustainable building
12 tax credit, the building owner shall provide to the taxation
13 and revenue department a certificate of eligibility issued by
14 the energy, minerals and natural resources department
15 pursuant to the requirements of Subsection E of this section
16 and any other information the taxation and revenue department
17 may require to determine the amount of the tax credit for
18 which the building owner is eligible.

19 I. If the requirements of this section have been
20 complied with, the department shall issue to the building
21 owner a document granting a sustainable building tax credit.
22 The document shall be numbered for identification and declare
23 its date of issuance and the amount of the tax credit allowed
24 pursuant to this section. The document may be submitted by
25 the building owner with that taxpayer's income tax return, if

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 applicable, or may be sold, exchanged or otherwise
2 transferred to another taxpayer. The parties to such a
3 transaction shall notify the department of the sale, exchange
4 or transfer within ten days of the sale, exchange or
5 transfer.

6 J. Except as provided in Subsection K of this
7 section, the sustainable building tax credit represented by
8 the document issued pursuant to Subsection I of this section
9 shall be applied against the taxpayer's income tax liability
10 for the taxable year for which the credit is approved and the
11 three subsequent taxable years, in increments of twenty-five
12 percent of the total credit amount in each of the four
13 taxable years. If the amount of the credit available in a
14 taxable year exceeds the taxpayer's income tax liability for
15 that taxable year, the excess may be carried forward for up
16 to seven years.

17 K. If the total amount of a sustainable building
18 tax credit approved by the department is less than twenty-
19 five thousand dollars (\$25,000), the entire amount of the
20 credit may be applied against the taxpayer's income tax
21 liability for the taxable year for which the credit is
22 approved. If the amount of the credit exceeds the taxpayer's
23 income tax liability for that taxable year, the excess may be
24 carried forward for up to seven years.

25 L. A taxpayer who otherwise qualifies and claims

.189003.1

underscored material = new
[bracketed material] = delete

1 a sustainable building tax credit with respect to a
2 sustainable building owned by a partnership or other business
3 association of which the taxpayer is a member may claim a
4 credit only in proportion to that taxpayer's interest in the
5 partnership or association. The total credit claimed in the
6 aggregate by all members of the partnership or association
7 with respect to the sustainable building shall not exceed the
8 amount of the credit that could have been claimed by a sole
9 owner of the property.

10 M. A husband and wife who file separate returns
11 for a taxable year in which they could have filed a joint
12 return may each claim only one-half of the sustainable
13 building tax credit that would have been allowed on a joint
14 return.

15 N. Beginning in 2014 and at six-year intervals
16 following 2014, the department shall present a report on the
17 sustainable building tax credit to the revenue stabilization
18 and tax policy committee for review. The committee, with the
19 aid of the department and the energy, minerals and natural
20 resources department, shall determine if a need remains for
21 the credit, if the credit is effectively being used for the
22 purpose for which it was created and if the use of the credit
23 is cost-effective. The credit may be proposed for repeal or
24 amendment if it is found by the committee to be ineffective,
25 more costly than is warranted by the purpose for which the

.189003.1

underscored material = new
[bracketed material] = delete

1 credit was proposed or unused or otherwise no longer needed.

2 [N.] 0. For the purposes of this section:

3 (1) "build green New Mexico rating system"
4 means the certification standards adopted by the homebuilders
5 association of central New Mexico;

6 (2) "LEED-CI" means the LEED rating system
7 for commercial interiors;

8 (3) "LEED-CS" means the LEED rating system
9 for the core and shell of buildings;

10 (4) "LEED-EB" means the LEED rating system
11 for existing buildings;

12 (5) "LEED gold" means the rating in
13 compliance with, or exceeding, the second-highest rating
14 awarded by the LEED certification process;

15 (6) "LEED" means the most current leadership
16 in energy and environmental design green building rating
17 system guidelines developed and adopted by the United States
18 green building council;

19 (7) "LEED-H" means the LEED rating system
20 for homes;

21 (8) "LEED-NC" means the LEED rating system
22 for new buildings and major renovations;

23 (9) "LEED platinum" means the rating in
24 compliance with, or exceeding, the highest rating awarded by
25 the LEED certification process;

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 (10) "LEED silver" means the rating in
2 compliance with, or exceeding, the third-highest rating
3 awarded by the LEED certification process;

4 (11) "manufactured housing" means a
5 multisectioned home that is:

6 (a) a manufactured home or modular
7 home;

8 (b) a single-family dwelling with a
9 heated area of at least thirty-six feet by twenty-four feet
10 and a total area of at least eight hundred sixty-four square
11 feet;

12 (c) constructed in a factory to the
13 standards of the United States department of housing and
14 urban development, the National Manufactured Housing
15 Construction and Safety Standards Act of 1974 and the Housing
16 and Urban Development Zone Code 2 or New Mexico construction
17 codes up to the date of the unit's construction; and

18 (d) installed consistent with the
19 Manufactured Housing Act and rules adopted pursuant to that
20 act relating to permanent foundations;

21 (12) "qualified occupied square footage"
22 means the occupied spaces of the building as determined by:

23 (a) the United States green building
24 council for those buildings obtaining LEED certification;

25 (b) the administrators of the build

underscored material = new
~~[bracketed material] = delete~~

1 green New Mexico rating system for those homes obtaining
2 build green New Mexico certification; and

3 (c) the United States environmental
4 protection agency for ENERGY STAR-certified manufactured
5 homes;

6 (13) "person" does not include state, local
7 government, public school district or tribal agencies;

8 (14) "sustainable building" means either a
9 sustainable commercial building or a sustainable residential
10 building;

11 (15) "sustainable commercial building" means
12 a building that has been registered and certified under the
13 LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

14 (a) is certified by the United States
15 green building council at LEED silver or higher;

16 (b) achieves any prerequisite for and
17 at least one point related to commissioning under LEED
18 "energy and atmosphere", if included in the applicable rating
19 system; and

20 (c) has reduced energy consumption, as
21 follows: 1) through 2011, a fifty percent energy reduction
22 will be required based on the national average for that
23 building type as published by the United States department of
24 energy; and beginning January 1, 2012, a sixty percent energy
25 reduction will be required based on the national average for

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 that building type as published by the United States
2 department of energy; and 2) is substantiated by the United
3 States environmental protection agency target finder energy
4 performance results form, dated no sooner than the schematic
5 design phase of development;

6 (16) "sustainable residential building"

7 means:

8 (a) a building used as a single-family
9 residence as registered and certified under the build green
10 New Mexico or LEED-H rating system that: 1) is certified by
11 the United States green building council as LEED-H silver or
12 higher or by build green New Mexico as silver or higher; and
13 2) has achieved a home energy rating system index of sixty or
14 lower as developed by the residential energy services
15 network;

16 (b) a multifamily dwelling unit, as
17 registered and certified under the LEED-H or build green New
18 Mexico rating system that: 1) is certified by the United
19 States green building council as LEED-H silver or higher or
20 by build green New Mexico as silver or higher; and 2) has
21 achieved a home energy rating system index of sixty or lower
22 as developed by the residential energy services network; or

23 (c) manufactured housing that is
24 ENERGY STAR-qualified by the United States environmental
25 protection agency; and

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 (17) "tribal" means of, belonging to or
2 created by a federally recognized Indian nation, tribe or
3 pueblo."

4 SECTION 8. Section 7-2-18.21 NMSA 1978 (being Laws
5 2007, Chapter 204, Section 7) is amended to read:

6 "7-2-18.21. CREDIT--BLENDED BIODIESEL FUEL.--

7 A. A taxpayer who is liable for payment of the
8 special fuel excise tax pursuant to Subsections A through D
9 of Section 7-16A-2.1 NMSA 1978 and who files a New Mexico
10 income tax return is eligible to claim a credit against
11 income tax liability for each gallon of blended biodiesel
12 fuel on which that person paid the special fuel excise tax in
13 the taxable year, or would have paid the special fuel excise
14 tax in the taxable year but for the deductions allowed
15 pursuant to Subsections B through F of Section 7-16A-10 NMSA
16 1978 or the treaty exemption for north Atlantic treaty
17 organization use. The credit shall be in the following
18 amounts for the following periods:

19 (1) from January 1, 2007 until December 31,
20 2010, at a rate of three cents (\$.03) per gallon;

21 (2) from January 1, 2011 until December 31,
22 2011, at a rate of two cents (\$.02) per gallon; and

23 (3) from January 1, 2012 until December 31,
24 2012, at a rate of one cent (\$.01) per gallon.

25 B. The tax credit provided by this section may

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 not be claimed with respect to the same blended biodiesel
2 fuel for which a credit has been claimed pursuant to the
3 Corporate Income and Franchise Tax Act or for which a credit
4 or refund has been claimed pursuant to Section 7-16A-13 NMSA
5 1978.

6 C. A taxpayer who otherwise qualifies for and
7 claims a credit pursuant to this section for blended
8 biodiesel fuel on which special fuel excise tax has been paid
9 by a partnership or other business association of which the
10 taxpayer is a member may claim a credit only in proportion to
11 the taxpayer's interest in the partnership or business
12 association. The total credit claimed in the aggregate by
13 all members of the partnership or business association shall
14 not exceed the amount of credit allowed pursuant to
15 Subsection A of this section.

16 D. A husband and wife who file separate returns
17 for a taxable year in which they could have filed a joint
18 return may each claim only one-half of the credit that would
19 have been allowed on a joint return.

20 E. The tax credit provided by this section may
21 only be applied against the income tax liability of the
22 person who paid the special fuel excise tax on the blended
23 biodiesel fuel with respect to which the credit is provided,
24 or who would have paid the special fuel excise tax but for
25 the deductions allowed pursuant to Subsections B through F of

.189003.1

underscored material = new
[bracketed material] = delete

1 Section 7-16A-10 NMSA 1978 or the treaty exemption for north
2 Atlantic treaty organization use. If the credit exceeds the
3 person's income tax liability for the taxable year in which
4 the credit is granted, the credit may be carried forward for
5 five years.

6 F. A taxpayer claiming a credit pursuant to this
7 section shall provide documentation of eligibility in form
8 and content as determined by the department.

9 G. Beginning in 2014 and at six-year intervals
10 following 2014, the department shall present a report on the
11 tax credit provided pursuant to this section to the revenue
12 stabilization and tax policy committee for review. The
13 committee, with the aid of the department and the energy,
14 minerals and natural resources department, shall determine if
15 a need remains for the credit, if the credit is effectively
16 being used for the purpose for which it was created and if
17 the use of the credit is cost-effective. The credit may be
18 proposed for repeal or amendment if it is found by the
19 committee to be ineffective, more costly than is warranted by
20 the purpose for which the credit was proposed or unused or
21 otherwise no longer needed.

22 [~~G.~~] H. For the purposes of this section:

23 (1) "biodiesel" means renewable,
24 biodegradable, monoalkyl ester combustible liquid fuel that
25 is derived from agricultural plant oils or animal fats and

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 that meets American society for testing and materials D 6751
2 standard specification for biodiesel B100 blend stock for
3 distillate fuels;

4 (2) "blended biodiesel fuel" means a diesel
5 fuel that contains at least two percent biodiesel; and

6 (3) "diesel fuel" means any diesel-engine
7 fuel used for the generation of power to propel a motor
8 vehicle."

9 SECTION 9. Section 7-2-18.22 NMSA 1978 (being Laws
10 2007, Chapter 361, Section 2) is amended to read:

11 "7-2-18.22. TAX CREDIT--RURAL HEALTH CARE PRACTITIONER
12 TAX CREDIT.--

13 A. A taxpayer who files an individual New Mexico
14 tax return, who is not a dependent of another individual, who
15 is an eligible health care practitioner and who has provided
16 health care services in New Mexico in a rural health care
17 underserved area in a taxable year may claim a credit against
18 the tax liability imposed by the Income Tax Act. The credit
19 provided in this section may be referred to as the "rural
20 health care practitioner tax credit".

21 B. The rural health care practitioner tax credit
22 may be claimed and allowed in an amount that shall not exceed
23 five thousand dollars (\$5,000) for all eligible physicians,
24 osteopathic physicians, dentists, clinical psychologists,
25 podiatrists and optometrists who qualify pursuant to the

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 provisions of this section, except the credit shall not
2 exceed three thousand dollars (\$3,000) for all eligible
3 dental hygienists, physician assistants, certified nurse-
4 midwives, certified registered nurse anesthetists, certified
5 nurse practitioners and clinical nurse specialists.

6 C. To qualify for the rural health care
7 practitioner tax credit, an eligible health care practitioner
8 shall have provided health care during a taxable year for at
9 least two thousand eighty hours at a practice site located in
10 an approved, rural health care underserved area. An eligible
11 rural health care practitioner who provided health care
12 services for at least one thousand forty hours but less than
13 two thousand eighty hours at a practice site located in an
14 approved rural health care underserved area during a taxable
15 year is eligible for one-half of the credit amount.

16 D. Before an eligible health care practitioner
17 may claim the rural health care practitioner tax credit, the
18 practitioner shall submit an application to the department of
19 health that describes the practitioner's clinical practice
20 and contains additional information that the department of
21 health may require. The department of health shall determine
22 whether an eligible health care practitioner qualifies for
23 the rural health care practitioner tax credit and shall issue
24 a certificate to each qualifying eligible health care
25 practitioner. The department of health shall provide the

.189003.1

underscored material = new
[bracketed material] = delete

1 taxation and revenue department appropriate information for
2 all eligible health care practitioners to whom certificates
3 are issued.

4 E. A taxpayer claiming the credit provided by
5 this section shall submit a copy of the certificate issued by
6 the department of health with the taxpayer's New Mexico
7 income tax return for the taxable year. If the amount of the
8 credit claimed exceeds a taxpayer's tax liability for the
9 taxable year in which the credit is being claimed, the excess
10 may be carried forward for three consecutive taxable years.

11 F. Beginning in 2014 and at six-year intervals
12 following 2014, the department shall present a report on the
13 rural health care practitioner credit to the revenue
14 stabilization and tax policy committee for review. The
15 committee, with the aid of the department and the department
16 of health, shall determine if a need remains for the credit,
17 if the credit is effectively being used for the purpose for
18 which it was created and if the use of the credit is cost-
19 effective. The credit may be proposed for repeal or
20 amendment if it is found by the committee to be ineffective,
21 more costly than is warranted by the purpose for which the
22 credit was proposed or unused or otherwise no longer needed.

23 [F.] G. As used in this section:

24 (1) "eligible health care practitioner"

25 means:

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 (a) a certified nurse-midwife licensed
2 by the board of nursing as a registered nurse and licensed by
3 the public health division of the department of health to
4 practice nurse-midwifery as a certified nurse-midwife;

5 (b) a dentist or dental hygienist
6 licensed pursuant to the Dental Health Care Act;

7 (c) an optometrist licensed pursuant
8 to the provisions of the Optometry Act;

9 (d) an osteopathic physician licensed
10 pursuant to the provisions of Chapter 61, Article 10 NMSA
11 1978 or an osteopathic physician assistant licensed pursuant
12 to the provisions of the Osteopathic Physicians' Assistants
13 Act;

14 (e) a physician or physician assistant
15 licensed pursuant to the provisions of Chapter 61, Article 6
16 NMSA 1978;

17 (f) a podiatrist licensed pursuant to
18 the provisions of the Podiatry Act;

19 (g) a clinical psychologist licensed
20 pursuant to the provisions of the Professional Psychologist
21 Act; and

22 (h) a registered nurse in advanced
23 practice who has been prepared through additional formal
24 education as provided in Sections 61-3-23.2 through 61-3-23.4
25 NMSA 1978 to function beyond the scope of practice of

.189003.1

underscored material = new
[bracketed material] = delete

1 professional registered nursing, including certified nurse
2 practitioners, certified registered nurse anesthetists and
3 clinical nurse specialists;

4 (2) "health care underserved area" means a
5 geographic area or practice location in which it has been
6 determined by the department of health, through the use of
7 indices and other standards set by the department of health,
8 that sufficient health care services are not being provided;

9 (3) "practice site" means a private
10 practice, public health clinic, hospital, public or private
11 nonprofit primary care clinic or other health care service
12 location in a health care underserved area; and

13 (4) "rural" means an area or location
14 identified by the department of health as falling outside of
15 an urban area."

16 SECTION 10. Section 7-2-18.24 NMSA 1978 (being Laws
17 2009, Chapter 271, Section 1) is amended to read:

18 "7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
19 CREDIT.--

20 A. A taxpayer who files an individual New Mexico
21 income tax return for a taxable year beginning on or after
22 January 1, 2010 and who purchases and installs after January
23 1, 2010 but before December 31, 2020 a geothermal ground-
24 coupled heat pump in a residence, business or agricultural
25 enterprise in New Mexico owned by that taxpayer may apply

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 for, and the department may allow, a tax credit of up to
2 thirty percent of the purchase and installation costs of the
3 system. The credit provided in this section may be referred
4 to as the "geothermal ground-coupled heat pump tax credit".
5 The total geothermal ground-coupled heat pump tax credit
6 allowed to a taxpayer shall not exceed nine thousand dollars
7 (\$9,000). The department shall allow a geothermal ground-
8 coupled heat pump tax credit only for geothermal ground-
9 coupled heat pumps certified by the energy, minerals and
10 natural resources department.

11 B. A portion of the geothermal ground-coupled
12 heat pump tax credit that remains unused in a taxable year
13 may be carried forward for a maximum of ten consecutive
14 taxable years following the taxable year in which the credit
15 originates until the credit is fully expended.

16 C. Prior to July 1, 2010, the energy, minerals
17 and natural resources department shall adopt rules
18 establishing procedures to provide certification of
19 geothermal ground-coupled heat pumps for purposes of
20 obtaining a geothermal ground-coupled heat pump tax credit.
21 The rules shall address technical specifications and
22 requirements relating to safety, building code and standards
23 compliance, minimum system sizes, system applications and
24 lists of eligible components. The energy, minerals and
25 natural resources department may modify the specifications

.189003.1

underscored material = new
[bracketed material] = delete

1 and requirements as necessary to maintain a high level of
2 system quality and performance.

3 D. The department may allow a maximum annual
4 aggregate of two million dollars (\$2,000,000) in geothermal
5 ground-coupled heat pump tax credits. Applications for the
6 credit shall be considered in the order received by the
7 department.

8 E. A taxpayer who otherwise qualifies and claims
9 a geothermal ground-coupled heat pump tax credit with respect
10 to property owned by a partnership or other business
11 association of which the taxpayer is a member may claim a
12 credit only in proportion to that taxpayer's interest in the
13 partnership or association. The total credit claimed in the
14 aggregate by all members of the partnership or association
15 with respect to the property shall not exceed the amount of
16 the credit that could have been claimed by a sole owner of
17 the property.

18 F. A husband and wife who file separate returns
19 for a taxable year in which they could have filed a joint
20 return may each claim only one-half of the credit that would
21 have been allowed on a joint return.

22 G. Beginning in 2014 and at six-year intervals
23 following 2014, the department shall present a report on the
24 geothermal ground-coupled heat pump tax credit to the revenue
25 stabilization and tax policy committee for review. The

.189003.1

1 committee, with the aid of the department and the energy,
2 minerals and natural resources department, shall determine if
3 a need remains for the credit, if the credit is effectively
4 being used for the purpose for which it was created and if
5 the use of the credit is cost-effective. The credit may be
6 proposed for repeal or amendment if it is found by the
7 committee to be ineffective, more costly than is warranted by
8 the purpose for which the credit was proposed or unused or
9 otherwise no longer needed.

10 [G.] H. As used in this section, "geothermal
11 ground-coupled heat pump" means a system that uses energy
12 from the ground, water or, ultimately, the sun for
13 distribution of heating, cooling or domestic hot water; that
14 has either a minimum coefficient of performance of three and
15 four-tenths or an efficiency ratio of sixteen or greater; and
16 that is installed by an accredited installer certified by the
17 international ground source heat pump association."

18 SECTION 11. A new section of the Corporate Income and
19 Franchise Tax Act is enacted to read:

20 "[NEW MATERIAL] TAX CREDITS--TAXPAYER REPORTING
21 REQUIREMENTS.--A taxpayer allowed a credit by the department
22 pursuant to Section 7-2A-8.6, 7-2A-8.9, 7-2A-14, 7-2A-17.1,
23 7-2A-19, 7-2A-21, 7-2A-23 or 7-2A-24 NMSA 1978, or any other
24 tax credit enacted pursuant to the Corporate Income and
25 Franchise Tax Act after January 1, 2012, shall report

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 annually by June 30 to the department on the activities of
2 the taxpayer in the preceding calendar year on a form
3 developed by the department to obtain information necessary
4 to analyze the effectiveness of the credit, determine if the
5 credit is being used for the purpose for which it was created
6 and assess whether the credit is cost-effective."

7 SECTION 12. Section 7-2A-8.6 NMSA 1978 (being Laws
8 1984, Chapter 34, Section 2, as amended) is amended to read:

9 "7-2A-8.6. CREDIT FOR PRESERVATION OF CULTURAL
10 PROPERTY--CORPORATE INCOME TAX CREDIT.--

11 A. Tax credits for the preservation of cultural
12 property may be claimed as follows:

13 (1) to encourage the restoration,
14 rehabilitation and preservation of cultural properties, a
15 taxpayer that files a corporate income tax return and that is
16 the owner of a cultural property listed on the official New
17 Mexico register of cultural properties, with its consent, may
18 claim a credit not to exceed twenty-five thousand dollars
19 (\$25,000) in an amount equal to one-half of the cost of
20 restoration, rehabilitation or preservation of the cultural
21 property; or

22 (2) if a cultural property, whose owner may
23 otherwise claim the credit set forth in Paragraph (1) of this
24 subsection is also located within an arts and cultural
25 district designated by the state or a municipality pursuant

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 to the Arts and Cultural District Act, the owner of that
2 cultural property may claim a credit not to exceed fifty
3 thousand dollars (\$50,000), including any credit claimed
4 pursuant to Paragraph (1) of this subsection, in an amount
5 equal to one-half of the cost of restoration, rehabilitation
6 or preservation of the cultural property.

7 B. The taxpayer may claim the credit if:

8 (1) it submitted a plan and specifications
9 for restoration, rehabilitation or preservation to the
10 committee and received approval from the committee for the
11 plan and specifications prior to commencement of the
12 restoration, rehabilitation or preservation;

13 (2) it received certification from the
14 committee after completing the restoration, rehabilitation or
15 preservation, or committee-approved phase, that it conformed
16 to the plan and specifications and preserved and maintained
17 those qualities of the property that made it eligible for
18 inclusion in the official register; and

19 (3) the project is completed within twenty-
20 four months of the date the project is approved by the
21 committee in accordance with Paragraph (1) of this
22 subsection.

23 C. A taxpayer may claim the credit provided in
24 this section for each taxable year in which preservation,
25 restoration or rehabilitation is carried out. Claims for the

.189003.1

underscored material = new
[bracketed material] = delete

1 credit provided in this section shall be limited to three
2 consecutive years, and the maximum aggregate credit allowable
3 shall not exceed twenty-five thousand dollars (\$25,000) if
4 governed by Paragraph (1) of Subsection A of this section, or
5 fifty thousand dollars (\$50,000) if governed by Paragraph (2)
6 of Subsection A of this section, for any single restoration,
7 rehabilitation or preservation project certified by the
8 committee for any cultural property listed on the official
9 New Mexico register. No single project may extend beyond a
10 period of more than two years.

11 D. A taxpayer [~~who~~] that otherwise qualifies and
12 claims a credit on a restoration, rehabilitation or
13 preservation project on property owned by a partnership of
14 which the taxpayer is a member may claim a credit only in
15 proportion to the taxpayer's interest in the partnership.
16 The total credit claimed by all members of the partnership
17 shall not exceed twenty-five thousand dollars (\$25,000) if
18 governed by Paragraph (1) of Subsection A of this section, or
19 fifty thousand dollars (\$50,000) if governed by Paragraph (2)
20 of Subsection A of this section, in the aggregate for any
21 single restoration, preservation or rehabilitation project
22 for any cultural property listed on the official New Mexico
23 register approved by the committee.

24 E. The credit provided in this section may only
25 be deducted from the taxpayer's corporate income tax

.189003.1

underscored material = new
[bracketed material] = delete

1 liability. Any portion of the maximum tax credit provided by
2 this section that remains unused at the end of the taxpayer's
3 taxable year may be carried forward for four consecutive
4 years; provided, however, the total tax credits claimed under
5 this section shall not exceed twenty-five thousand dollars
6 (\$25,000) if governed by Paragraph (1) of Subsection A of
7 this section, or fifty thousand dollars (\$50,000) if governed
8 by Paragraph (2) of Subsection A of this section, for any
9 single restoration, rehabilitation or preservation project
10 for any cultural property listed on the official New Mexico
11 register.

12 F. The historic preservation division shall
13 promulgate regulations for the implementation of this
14 section.

15 G. Beginning in 2014 and at six-year intervals
16 following 2014, the department shall present a report on the
17 tax credit provided pursuant to this section to the revenue
18 stabilization and tax policy committee for review. The
19 revenue stabilization and tax policy committee, with the aid
20 of the department and the cultural affairs department, shall
21 determine if a need remains for the credit, if the credit is
22 effectively being used for the purpose for which it was
23 created and if the use of the credit is cost-effective. The
24 credit may be proposed for repeal or amendment if it is found
25 by the revenue stabilization and tax policy committee to be

.189003.1

underscored material = new
[bracketed material] = delete

1 ineffective, more costly than is warranted by the purpose for
2 which the credit was proposed or unused or otherwise no
3 longer needed.

4 [~~G.~~] H. As used in this section:

5 (1) "committee" means the cultural
6 properties review committee created in Section 18-6-4 NMSA
7 1978; and

8 (2) "historic preservation division" means
9 the historic preservation division of the cultural affairs
10 department created in Section 18-6-8 NMSA 1978."

11 **SECTION 13.** Section 7-2A-8.9 NMSA 1978 (being Laws
12 2003, Chapter 331, Section 8, as amended) is amended to read:

13 "7-2A-8.9. TAX CREDIT--CERTAIN CONVEYANCES OF REAL
14 PROPERTY.--

15 A. There shall be allowed as a credit against the
16 tax liability imposed by the Corporate Income and Franchise
17 Tax Act an amount equal to fifty percent of the fair market
18 value of land or interest in land that is conveyed for the
19 purpose of open space, natural resource or biodiversity
20 conservation, agricultural preservation or watershed or
21 historic preservation as an unconditional donation in
22 perpetuity by the landowner or taxpayer to a public or
23 private conservation agency eligible to hold the land and
24 interests therein for conservation or preservation purposes.
25 The fair market value of qualified donations made pursuant to

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 this section shall be substantiated by a "qualified
2 appraisal" prepared by a "qualified appraiser", as those
3 terms are defined under applicable federal laws and
4 regulations governing charitable contributions.

5 B. The amount of the credit that may be claimed
6 by a taxpayer shall not exceed one hundred thousand dollars
7 (\$100,000) for a conveyance made prior to January 1, 2008 and
8 shall not exceed two hundred fifty thousand dollars
9 (\$250,000) for a conveyance made on or after that date. In
10 addition, in a taxable year, the credit used may not exceed
11 the amount of corporate income tax otherwise due. A portion
12 of the credit that is unused in a taxable year may be carried
13 over for a maximum of twenty consecutive taxable years
14 following the taxable year in which the credit originated
15 until fully expended. A taxpayer may claim only one tax
16 credit per taxable year.

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

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 for the purpose of fulfilling density requirements to obtain
2 subdivision or building permits shall not be considered as
3 qualified donations pursuant to the Land Conservation
4 Incentives Act.

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

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

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

.189003.1

underscored material = new
~~[bracketed material] = delete~~

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

9 G. To receive a credit pursuant to this section,
10 a person shall apply to the taxation and revenue department
11 on 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
22 issued pursuant to Subsection G of this section for a
23 conveyance made on or after January 1, 2008, or an increment
24 of that tax credit, may be sold, exchanged or otherwise
25 transferred and may be carried forward for a period of twenty

underscoring material = new
~~[bracketed material] = delete~~

1 taxable years following the taxable year in which the credit
2 originated until fully expended. A tax credit or increment
3 of a tax credit may only be transferred once. The credit may
4 be transferred to any taxpayer. A taxpayer to whom a credit
5 has been transferred may use the credit for the taxable year
6 in which the transfer occurred and unused amounts may be
7 carried forward to succeeding taxable years, but in no event
8 may the transferred credit be used more than twenty years
9 after it was originally 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
15 the transfer. Credits shall only be transferred in
16 increments of ten thousand dollars (\$10,000) or more. The
17 qualified intermediary shall keep an account of the credits
18 and have the authority to issue sub-numbers registered with
19 the taxation and revenue department and traceable to the
20 original credit.

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

.189003.1

underscored material = new
[bracketed material] = delete

1 contribution in order to determine the New Mexico taxable
2 income of the taxpayer.

3 K. Beginning in 2014 and at six-year intervals
4 following 2014, the department shall present a report on the
5 tax credit provided pursuant to this section to the revenue
6 stabilization and tax policy committee for review. The
7 committee, with the aid of the department and the energy,
8 minerals and natural resources department, shall determine if
9 a need remains for the credit, if the credit is effectively
10 being used for the purpose for which it was created and if
11 the use of the credit is cost-effective. The credit may be
12 proposed for repeal or amendment if it is found by the
13 committee to be ineffective, more costly than is warranted by
14 the purpose for which the credit was proposed or unused or
15 otherwise no longer needed.

16 [~~K.~~] L. For the purposes of this section:

17 (1) "qualified intermediary" does not
18 include a person who has been previously convicted of a
19 felony, who has had a professional license revoked, who is
20 engaged in the practice defined in Section 61-28B-3 NMSA 1978
21 and who is identified in Section 61-29-2 NMSA 1978, and does
22 not include any entity owned wholly or in part or employing
23 any of the foregoing persons; and

24 (2) "taxpayer" means a citizen or resident
25 of the United States, a domestic partnership, a limited

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 liability company, a domestic corporation, an estate,
2 including a foreign estate, or a trust."

3 SECTION 14. Section 7-2A-14 NMSA 1978 (being Laws 1983,
4 Chapter 218, Section 1, as amended) is amended to read:

5 "7-2A-14. CORPORATE-SUPPORTED CHILD CARE--CREDITS
6 ALLOWED.--

7 A. A taxpayer that pays for child care services
8 in New Mexico for dependent children of an employee of the
9 taxpayer during the employee's hours of employment may claim
10 a credit against the corporate income tax imposed pursuant to
11 the Corporate Income and Franchise Tax Act in an amount equal
12 to thirty percent of the total expenses, net of any
13 reimbursements, for child care services incurred and paid by
14 the taxpayer in the taxable year.

15 B. A taxpayer that operates a child care facility
16 in New Mexico used primarily by the dependent children of the
17 taxpayer's employees may also claim a credit against the
18 corporate income tax imposed pursuant to the Corporate Income
19 and Franchise Tax Act in an amount equal to thirty percent of
20 the net cost of operating the child care facility for the
21 taxable year. If two or more taxpayers share in the cost of
22 operating a child care facility primarily for the dependent
23 children of the taxpayers' employees, each taxpayer shall be
24 allowed a credit in relation to the taxpayer's share of the
25 cost of operating the child care facility. Each taxpayer's

.189003.1

underscored material = new
[bracketed material] = delete

1 share of the tax credit shall be determined by dividing the
2 employer's share of the net cost of operating the child care
3 facility by the number of children served and multiplying the
4 result by the number of the taxpayer's employees' children
5 served. The credit allowed pursuant to this subsection may
6 be taken only if the child care facility is operated under
7 the authority of a license issued pursuant to the Public
8 Health Act and is operated without profit by the taxpayer.
9 For the purposes of this section, the term "net cost" means
10 the cost of operating a child care facility less any amounts
11 collected as fees for use of the facility, any federal tax
12 credits with respect to the facility or its operation and any
13 other payment or reimbursement from any other source other
14 than the credit provided by this section.

15 C. Beginning in 2014 and at six-year intervals
16 following 2014, the department shall present a report on the
17 tax credit provided pursuant to this section to the revenue
18 stabilization and tax policy committee for review. The
19 committee, with the aid of the department and the economic
20 development department and the children, youth and families
21 department, shall determine if a need remains for the credit,
22 if the credit is effectively being used for the purpose for
23 which it was created and if the use of the credit is cost-
24 effective. The credit may be proposed for repeal or
25 amendment if it is found by the committee to be ineffective,

.189003.1

underscored material = new
[bracketed material] = delete

1 more costly than is warranted by the purpose for which the
2 credit was proposed or unused or otherwise no longer needed.

3 [G.] D. For the purposes of this section,
4 "dependent children" means children under twelve years of
5 age.

6 [D.] E. The credits provided for by Subsections A
7 and B of this section may only be deducted from the
8 taxpayer's corporate income tax liability for the taxable
9 year in which the expenditures occurred. The credit may not
10 exceed thirty thousand dollars (\$30,000) in any taxable year.
11 If the credit amount exceeds the corporate income tax
12 liability, the excess may be carried forward for three
13 consecutive years; provided that in no event shall the annual
14 credit amount exceed thirty thousand dollars (\$30,000)."

15 **SECTION 15.** Section 7-2A-17.1 NMSA 1978 (being Laws
16 2003, Chapter 400, Section 2) is amended to read:

17 "7-2A-17.1. JOB MENTORSHIP TAX CREDIT.--

18 A. To encourage New Mexico businesses to hire
19 youth participating in career preparation education programs,
20 a taxpayer ~~[who]~~ that files ~~[an individual]~~ a New Mexico
21 corporate income tax return ~~[who is not a dependent of~~
22 ~~another individual]~~ and ~~[who]~~ that is an owner of a New
23 Mexico business may claim a credit in an amount equal to
24 fifty percent of gross wages paid to qualified students who
25 are employed by the business during the taxable year for

.189003.1

underscoring material = new
[bracketed material] = delete

1 which the return is filed. The tax credit provided by this
2 section may be referred to as the "job mentorship tax
3 credit".

4 B. A taxpayer ~~[who]~~ that is an owner of a New
5 Mexico business may claim the job mentorship tax credit for
6 each taxable year in which the business employs one or more
7 qualified students. The maximum aggregate credit allowable
8 shall not exceed fifty percent of the gross wages paid to not
9 more than ten qualified students employed by the business for
10 up to three hundred twenty hours of employment of each
11 qualified student in each taxable year for a maximum of three
12 taxable years for each qualified student. In no event shall
13 a taxpayer claim a credit in excess of twelve thousand
14 dollars (\$12,000) in any taxable year. The taxpayer shall
15 certify that hiring the qualified student does not displace
16 or replace a current employee.

17 C. The department shall issue job mentorship tax
18 credit certificates upon request to any accredited New Mexico
19 secondary school that has a school-sanctioned career
20 preparation education program. The maximum number of
21 certificates that may be issued in a school year to any one
22 school is equal to the number of qualified students in the
23 school-sanctioned career preparation education program on
24 October 15 of that school year, as certified by the school
25 principal.

.189003.1

underscored material = new
[bracketed material] = delete

1 D. A job mentorship tax credit certificate may be
2 executed by a school principal with respect to a qualified
3 student, and the executed certificate may be transferred to a
4 New Mexico business that employs that student. By executing
5 the certificate with respect to a student, the school
6 principal certifies that the school has a school-sanctioned
7 career preparation education program and the student is a
8 qualified student.

9 E. To claim the job mentorship tax credit, the
10 taxpayer must submit with respect to each employee for whom
11 the credit is claimed:

12 (1) a properly executed job mentorship tax
13 credit certificate;

14 (2) information required by the secretary
15 with respect to the employee's employment by the business
16 during the taxable year for which the credit is claimed; and

17 (3) information required by the secretary
18 that the employee was not also employed in the same taxable
19 year by another New Mexico business qualifying for and
20 claiming a job mentorship tax credit for that employee
21 pursuant to this section or the [~~Corporate~~] Income [~~and~~
22 ~~Franchise~~] Tax Act.

23 F. The job mentorship tax credit may only be
24 deducted from the taxpayer's New Mexico corporate income tax
25 liability for the taxable year. Any portion of the maximum

.189003.1

underscored material = new
[bracketed material] = delete

1 credit provided by this section that remains unused at the
2 end of the taxpayer's taxable year may be carried forward for
3 three consecutive taxable years; provided the total credits
4 claimed under this section shall not exceed the maximum
5 allowable pursuant to Subsection B of this section.

6 ~~G. A husband and wife who file separate returns~~
7 ~~for a taxable year in which they could have filed a joint~~
8 ~~return may each claim only one-half of the credit that would~~
9 ~~have been allowed on a joint return.~~

10 ~~H. A taxpayer who otherwise qualifies for and~~
11 ~~claims a job mentorship tax credit for employment of~~
12 ~~qualified students by a partnership, limited partnership,~~
13 ~~limited liability company, S corporation or other business~~
14 ~~association of which the taxpayer is a member may claim a~~
15 ~~credit only in proportion to his interest in the partnership,~~
16 ~~limited partnership, limited liability company, S corporation~~
17 ~~or association. The total credit claimed by all members of~~
18 ~~the business shall not exceed the maximum credit allowable~~
19 ~~pursuant to Subsection B of this section.~~

20 F.] G. Beginning in 2014 and at six-year
21 intervals following 2014, the department shall present a
22 report on the job mentorship tax credit provided pursuant to
23 this section to the revenue stabilization and tax policy
24 committee for review. The committee, with the aid of the
25 department and the economic development department, shall

.189003.1

underscored material = new
[bracketed material] = delete

1 determine if a need remains for the credit, if the credit is
2 effectively being used for the purpose for which it was
3 created and if the use of the credit is cost-effective. The
4 credit may be proposed for repeal or amendment if it is found
5 by the committee to be ineffective, more costly than is
6 warranted by the purpose for which the credit was proposed or
7 unused or otherwise no longer needed.

8 H. As used in this section:

9 (1) "career preparation education program"
10 means a work-based learning or school-to-career program
11 designed for secondary school students to create academic and
12 career goals and objectives and find employment in a job
13 meeting those goals and objectives;

14 (2) "New Mexico business" means a
15 ~~[partnership, limited partnership, limited liability company~~
16 ~~treated as a partnership for federal income tax purposes, S~~
17 ~~corporation or sole proprietorship]~~ corporation that carries
18 on a trade or business in New Mexico and that employs in New
19 Mexico fewer than three hundred full-time employees at any
20 one time during the taxable year; and

21 (3) "qualified student" means an individual
22 who is at least fourteen years of age but not more than
23 twenty-one years of age who is attending full time an
24 accredited New Mexico secondary school and who is a
25 participant in a career preparation education program

underscored material = new
~~[bracketed material] = delete~~

1 sanctioned by the secondary school."

2 SECTION 16. Section 7-2A-19 NMSA 1978 (being Laws 2002,
3 Chapter 59, Section 1, as amended) is amended to read:

4 "7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--
5 LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

6 A. The tax credit provided in this section may be
7 referred to as the "renewable energy production tax credit".
8 The tax credit provided in this section may not be claimed
9 with respect to the same electricity production for which the
10 renewable energy production tax credit provided in the Income
11 Tax Act has been claimed.

12 B. A person is eligible for the renewable energy
13 production tax credit if the person:

14 (1) holds title to a qualified energy
15 generator that first produced electricity on or before
16 January 1, 2018; or

17 (2) leases property upon which a qualified
18 energy generator operates from a county or municipality under
19 authority of an industrial revenue bond and if the qualified
20 energy generator first produced electricity on or before
21 January 1, 2018.

22 C. The amount of the tax credit shall equal one
23 cent (\$.01) per kilowatt-hour of the first four hundred
24 thousand megawatt-hours of electricity produced by the
25 qualified energy generator in the taxable year using a wind-

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 or biomass-derived qualified energy resource, provided that
2 the total amount of tax credits claimed by all taxpayers for
3 a single qualified energy generator in a taxable year using a
4 wind- or biomass-derived qualified energy resource shall not
5 exceed one cent (\$.01) per kilowatt-hour of the first four
6 hundred thousand megawatt-hours of electricity produced by
7 the qualified energy generator.

8 D. The amount of the tax credit for electricity
9 produced by a qualified energy generator in the taxable year
10 using a solar-light-derived or solar-heat-derived qualified
11 energy resource shall be at the amounts specified in
12 Paragraphs (1) through (10) of this subsection; provided that
13 the total amount of tax credits claimed for a taxable year by
14 all taxpayers for a single qualified energy generator using a
15 solar-light-derived or solar-heat-derived qualified energy
16 resource shall be limited to the first two hundred thousand
17 megawatt-hours of electricity produced by the qualified
18 energy generator in the taxable year:

19 (1) one and one-half cents (\$.015) per
20 kilowatt-hour in the first taxable year in which the
21 qualified energy generator produces electricity using a
22 solar-light-derived or solar-heat-derived qualified energy
23 resource;

24 (2) two cents (\$.02) per kilowatt-hour in
25 the second taxable year in which the qualified energy

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 generator produces electricity using a solar-light-derived or
2 solar-heat-derived qualified energy resource;

3 (3) two and one-half cents (\$.025) per
4 kilowatt-hour in the third taxable year in which the
5 qualified energy generator produces electricity using a
6 solar-light-derived or solar-heat-derived qualified energy
7 resource;

8 (4) three cents (\$.03) per kilowatt-hour in
9 the fourth taxable year in which the qualified energy
10 generator produces electricity using a solar-light-derived or
11 solar-heat-derived qualified energy resource;

12 (5) three and one-half cents (\$.035) per
13 kilowatt-hour in the fifth taxable year in which the
14 qualified energy generator produces electricity using a
15 solar-light-derived or solar-heat-derived qualified energy
16 resource;

17 (6) four cents (\$.04) per kilowatt-hour in
18 the sixth taxable year in which the qualified energy
19 generator produces electricity using a solar-light-derived or
20 solar-heat-derived qualified energy resource;

21 (7) three and one-half cents (\$.035) per
22 kilowatt-hour in the seventh taxable year in which the
23 qualified energy generator produces electricity using a
24 solar-light-derived or solar-heat-derived qualified energy
25 resource;

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 (8) three cents (\$.03) per kilowatt-hour in
2 the eighth taxable year in which the qualified energy
3 generator produces electricity using a solar-light-derived or
4 solar-heat-derived qualified energy resource;

5 (9) two and one-half cents (\$.025) per
6 kilowatt-hour in the ninth taxable year in which the
7 qualified energy generator produces electricity using a
8 solar-light-derived or solar-heat-derived qualified energy
9 resource; and

10 (10) two cents (\$.02) per kilowatt-hour in
11 the tenth taxable year in which the qualified energy
12 generator produces electricity using a solar-light-derived or
13 solar-heat-derived qualified energy resource.

14 E. A taxpayer eligible for a renewable energy
15 production tax credit pursuant to Subsection B of this
16 section shall be eligible for the renewable energy production
17 tax credit for ten consecutive years, beginning on the date
18 the qualified energy generator begins producing electricity.

19 F. As used in this section:

20 (1) "biomass" means organic material that is
21 available on a renewable or recurring basis, including:

22 (a) forest-related materials,
23 including mill residues, logging residues, forest thinnings,
24 slash, brush, low-commercial value materials or undesirable
25 species, salt cedar and other phreatophyte or woody

.189003.1

underscored material = new
~~[bracketed material]~~ = delete

1 vegetation removed from river basins or watersheds and woody
2 material harvested for the purpose of forest fire fuel
3 reduction or forest health and watershed improvement;

4 (b) agricultural-related materials,
5 including orchard trees, vineyard, grain or crop residues,
6 including straws and stover, aquatic plants and agricultural
7 processed co-products and waste products, including fats,
8 oils, greases, whey and lactose;

9 (c) animal waste, including manure and
10 slaughterhouse and other processing waste;

11 (d) solid woody waste materials,
12 including landscape or right-of-way tree trimmings, rangeland
13 maintenance residues, waste pallets, crates and
14 manufacturing, construction and demolition wood wastes,
15 excluding pressure-treated, chemically treated or painted
16 wood wastes and wood contaminated with plastic;

17 (e) crops and trees planted for the
18 purpose of being used to produce energy;

19 (f) landfill gas, wastewater treatment
20 gas and biosolids, including organic waste byproducts
21 generated during the wastewater treatment process; and

22 (g) segregated municipal solid waste,
23 excluding tires and medical and hazardous waste;

24 (2) "qualified energy generator" means a
25 facility with at least one megawatt generating capacity

.189003.1

1 located in New Mexico that produces electricity using a
2 qualified energy resource and that sells that electricity to
3 an unrelated person; and

4 (3) "qualified energy resource" means a
5 resource that generates electrical energy by means of a
6 fluidized bed technology or similar low-emissions technology
7 or a zero-emissions generation technology that has
8 substantial long-term production potential and that uses only
9 the following energy sources:

10 (a) solar light;

11 (b) solar heat;

12 (c) wind; or

13 (d) biomass.

14 G. A person that holds title to a facility
15 generating electricity from a qualified energy resource or a
16 person that leases such a facility from a county or
17 municipality pursuant to an industrial revenue bond may
18 request certification of eligibility for the renewable energy
19 production tax credit from the energy, minerals and natural
20 resources department, which shall determine if the facility
21 is a qualified energy generator. The energy, minerals and
22 natural resources department may certify the eligibility of
23 an energy generator only if the total amount of electricity
24 that may be produced annually by all qualified energy
25 generators that are certified pursuant to this section and

underscored material = new
~~[bracketed material] = delete~~

1 pursuant to the Income Tax Act will not exceed a total of two
2 million megawatt-hours plus an additional five hundred
3 thousand megawatt-hours produced by qualified energy
4 generators using a solar-light-derived or solar-heat-derived
5 qualified energy resource. Applications shall be considered
6 in the order received. The energy, minerals and natural
7 resources department may estimate the annual power-generating
8 potential of a generating facility for the purposes of this
9 section. The energy, minerals and natural resources
10 department shall issue a certificate to the applicant stating
11 whether the facility is an eligible qualified energy
12 generator and the estimated annual production potential of
13 the 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 and shall
18 report annually to the appropriate interim legislative
19 committee information that will allow the legislative
20 committee to analyze the effectiveness of the renewable
21 energy production tax credit, including the identity of
22 qualified energy generators, the energy production means
23 used, the amount of energy produced by those qualified energy
24 generators and whether any applications could not be approved
25 due to program limits.

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 H. A taxpayer may be allocated all or a portion
2 of the right to claim a renewable energy production tax
3 credit without regard to proportional ownership interest if:

4 (1) the taxpayer owns an interest in a
5 business entity that is taxed for federal income tax purposes
6 as a partnership;

7 (2) the business entity:

8 (a) would qualify for the renewable
9 energy production tax credit pursuant to Paragraph (1) or (2)
10 of Subsection B of this section;

11 (b) owns an interest in a business
12 entity that is also taxed for federal income tax purposes as
13 a partnership and that would qualify for the renewable energy
14 production tax credit pursuant to Paragraph (1) or (2) of
15 Subsection B of this section; or

16 (c) owns, through one or more
17 intermediate business entities that are each taxed for
18 federal income tax purposes as a partnership, an interest in
19 the business entity described in Subparagraph (b) of this
20 paragraph;

21 (3) the taxpayer and all other taxpayers
22 allocated a right to claim the renewable energy production
23 tax credit pursuant to this subsection own collectively at
24 least a five percent interest in a qualified energy
25 generator;

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 (4) the business entity provides notice of
2 the allocation and the taxpayer's interest to the energy,
3 minerals and natural resources department on forms prescribed
4 by that department; and

5 (5) the energy, minerals and natural
6 resources department certifies the allocation in writing to
7 the taxpayer.

8 I. Upon receipt of notice of an allocation of the
9 right to claim all or a portion of the renewable energy
10 production tax credit, the energy, minerals and natural
11 resources department shall promptly certify the allocation in
12 writing to the recipient of the allocation.

13 J. A taxpayer may claim the renewable energy
14 production tax credit by submitting to the taxation and
15 revenue department the certificate issued by the energy,
16 minerals and natural resources department, pursuant to
17 Subsection G or H of this section, documentation showing the
18 taxpayer's interest in the facility, documentation of the
19 amount of electricity produced by the facility in the taxable
20 year and any other information the taxation and revenue
21 department may require to determine the amount of the tax
22 credit due the taxpayer.

23 K. If the requirements of this section have been
24 complied with, the department shall approve the renewable
25 energy production tax credit. The credit may be deducted

.189003.1

underscored material = new
[bracketed material] = delete

1 from a taxpayer's New Mexico corporate income tax liability
2 for the taxable year for which the credit is claimed. If the
3 amount of tax credit exceeds the taxpayer's corporate income
4 tax liability for the taxable year:

5 (1) the excess may be carried forward for a
6 period of five taxable years; or

7 (2) if the tax credit was issued with
8 respect to a qualified energy generator that first produced
9 electricity using a qualified energy resource on or after
10 October 1, 2007, the excess shall be refunded to the
11 taxpayer.

12 L. Once a taxpayer has been granted a renewable
13 energy production tax credit for a given facility, that
14 taxpayer shall be allowed to retain the facility's original
15 date of application for tax credits for that facility until
16 either the facility goes out of production for more than six
17 consecutive months in a year or until the facility's ten-year
18 eligibility has expired.

19 M. Beginning in 2014 and at six-year intervals
20 following 2014, the department shall present a report on the
21 renewable energy production tax credit to the revenue
22 stabilization and tax policy committee for review. The
23 committee, with the aid of the department and the energy,
24 minerals and natural resources department, shall determine if
25 a need remains for the credit, if the credit is effectively

.189003.1

underscored material = new
[bracketed material] = delete

1 being used for the purpose for which it was created and if
2 the use of the credit is cost-effective. The credit may be
3 proposed for repeal or amendment if it is found by the
4 committee to be ineffective, more costly than is warranted by
5 the purpose for which the credit was proposed or unused or
6 otherwise no longer needed."

7 SECTION 17. Section 7-2A-21 NMSA 1978 (being Laws 2007,
8 Chapter 204, Section 4, as amended) is amended to read:

9 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

10 A. The tax credit provided by this section may be
11 referred to as the "sustainable building tax credit". The
12 sustainable building tax credit shall be available for the
13 construction in New Mexico of a sustainable building, the
14 renovation of an existing building in New Mexico into a
15 sustainable building or the permanent installation of
16 manufactured housing, regardless of where the housing is
17 manufactured, that is a sustainable building. The tax credit
18 provided in this section may not be claimed with respect to
19 the same sustainable building for which the sustainable
20 building tax credit provided in the Income Tax Act has been
21 claimed.

22 B. A taxpayer that files a corporate income tax
23 return is eligible to be granted a sustainable building tax
24 credit by the department if the taxpayer submits a document
25 issued pursuant to Subsection I of this section with the

.189003.1

1 taxpayer's corporate income tax return.

2 C. The amount of the sustainable building tax
3 credit that may be claimed with respect to a sustainable
4 commercial building shall be calculated based on the
5 certification level the building has achieved in the LEED
6 green building rating system and the amount of qualified
7 occupied square footage in the building, as indicated on the
8 following chart:

9	LEED Rating Level	Qualified	Tax Credit per
10		Occupied	Square Foot
11		Square Footage	
12	LEED-NC Silver	First 10,000	\$3.50
13		Next 40,000	\$1.75
14		Over 50,000	
15		up to 500,000	\$.70
16	LEED-NC Gold	First 10,000	\$4.75
17		Next 40,000	\$2.00
18		Over 50,000	
19		up to 500,000	\$1.00
20	LEED-NC Platinum	First 10,000	\$6.25
21		Next 40,000	\$3.25
22		Over 50,000	
23		up to 500,000	\$2.00
24	LEED-EB or CS Silver	First 10,000	\$2.50
25		Next 40,000	\$1.25

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1		Over 50,000	
2		up to 500,000	\$.50
3	LEED-EB or CS Gold	First 10,000	\$3.35
4		Next 40,000	\$1.40
5		Over 50,000	
6		up to 500,000	\$.70
7	LEED-EB or CS		
8	Platinum	First 10,000	\$4.40
9		Next 40,000	\$2.30
10		Over 50,000	
11		up to 500,000	\$1.40
12	LEED-CI Silver	First 10,000	\$1.40
13		Next 40,000	\$.70
14		Over 50,000	
15		up to 500,000	\$.30
16	LEED-CI Gold	First 10,000	\$1.90
17		Next 40,000	\$.80
18		Over 50,000	
19		up to 500,000	\$.40
20	LEED-CI Platinum	First 10,000	\$2.50
21		Next 40,000	\$1.30
22		Over 50,000	
23		up to 500,000	\$.80.

24 D. The amount of the sustainable building tax
25 credit that may be claimed with respect to a sustainable

.189003.1

1 residential building shall be calculated based on the amount
 2 of qualified occupied square footage, as indicated on the
 3 following chart:

4 Rating System/Level	5 Qualified Occupied	6 Tax Credit per Square Foot
7 LEED-H Silver or Build	8 First 2,000	9 \$5.00
10 Green NM Silver	11 Next 1,000	12 \$2.50
13 LEED-H Gold or Build	14 First 2,000	15 \$6.85
16 Green NM Gold	17 Next 1,000	18 \$3.40
19 LEED-H Platinum or Build	20 First 2,000	21 \$9.00
22 Green NM Emerald	23 Next 1,000	24 \$4.45
25 EPA ENERGY STAR		
Manufactured Housing	Up to 3,000	\$3.00.

15 E. A person that is a building owner may apply
 16 for a certificate of eligibility for the sustainable building
 17 tax credit from the energy, minerals and natural resources
 18 department after the construction, installation or renovation
 19 of the sustainable building is complete. Applications shall
 20 be considered in the order received. If the energy, minerals
 21 and natural resources department determines that the building
 22 owner meets the requirements of this subsection and that the
 23 building with respect to which the tax credit application is
 24 made meets the requirements of this section as a sustainable
 25 residential building or a sustainable commercial building,

.189003.1

underscored material = new
 [bracketed material] = delete

underscored material = new
~~[bracketed material] = delete~~

1 the energy, minerals and natural resources department may
2 issue a certificate of eligibility to the building owner,
3 subject to the limitation in Subsection F of this section.
4 The certificate shall include the rating system certification
5 level awarded to the building, the amount of qualified
6 occupied square footage in the building and a calculation of
7 the maximum amount of sustainable building tax credit for
8 which the building owner would be eligible. The energy,
9 minerals and natural resources department may issue rules
10 governing the procedure for administering the provisions of
11 this subsection. If the certification level for the
12 sustainable residential building is awarded on or after
13 January 1, 2007, the energy, minerals and natural resources
14 department may issue a certificate of eligibility to a
15 building owner who is:

16 (1) the owner of the sustainable residential
17 building at the time the certification level for the building
18 is awarded; or

19 (2) the subsequent purchaser of a
20 sustainable residential building with respect to which no tax
21 credit has been previously claimed.

22 F. The energy, minerals and natural resources
23 department may issue a certificate of eligibility only if the
24 total amount of sustainable building tax credits represented
25 by certificates of eligibility issued by the energy, minerals

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 and natural resources department pursuant to this section and
2 pursuant to the Income Tax Act shall not exceed in any
3 calendar year an aggregate amount of five million dollars
4 (\$5,000,000) with respect to sustainable commercial buildings
5 and an aggregate amount of five million dollars (\$5,000,000)
6 with respect to sustainable residential buildings; provided
7 that no more than one million two hundred fifty thousand
8 dollars (\$1,250,000) of the aggregate amount with respect to
9 sustainable residential buildings shall be for manufactured
10 housing. If for any taxable year, the energy, minerals and
11 natural resources department determines that the applications
12 for sustainable building tax credits with respect to
13 sustainable residential buildings for that taxable year
14 exceed the aggregate limit set in this section, the energy,
15 minerals and natural resources department may issue
16 certificates of eligibility under the aggregate annual limit
17 for sustainable commercial buildings to building owners of
18 multifamily dwelling units that meet the requirements of the
19 energy, minerals and natural resources department and of this
20 section; provided that applications for sustainable building
21 credits for other sustainable commercial buildings total less
22 than the full amount allocated for tax credits for
23 sustainable commercial buildings.

24 G. Installation of a solar thermal system or a
25 photovoltaic system eligible for the solar market development

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
2 used as a component of qualification for the rating system
3 certification level used in determining eligibility for the
4 sustainable building tax credit, unless a solar market
5 development tax credit pursuant to Section 7-2-18.14 NMSA
6 1978 has not been claimed with respect to that system and the
7 building owner and the taxpayer claiming the sustainable
8 building tax credit certify that such a tax credit will not
9 be claimed with respect to that system.

10 H. To be eligible for the sustainable building
11 tax credit, the building owner shall provide to the taxation
12 and revenue department a certificate of eligibility issued by
13 the energy, minerals and natural resources department
14 pursuant to the requirements of Subsection E of this section
15 and any other information the taxation and revenue department
16 may require to determine the amount of the tax credit for
17 which the building owner is eligible.

18 I. If the requirements of this section have been
19 complied with, the department shall issue to the building
20 owner a document granting a sustainable building tax credit.
21 The document shall be numbered for identification and declare
22 its date of issuance and the amount of the tax credit allowed
23 pursuant to this section. The document may be submitted by
24 the building owner with that taxpayer's income tax return, if
25 applicable, or may be sold, exchanged or otherwise

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 transferred to another taxpayer. The parties to such a
2 transaction shall notify the department of the sale, exchange
3 or transfer within ten days of the sale, exchange or
4 transfer.

5 J. Except as provided in Subsection K of this
6 section, the sustainable building tax credit represented by
7 the document issued pursuant to Subsection I of this section
8 shall be applied against the taxpayer's corporate income tax
9 liability for the taxable year for which the credit is
10 approved and the three subsequent taxable years, in
11 increments of twenty-five percent of the total credit amount
12 in each of the four taxable years. If the amount of the
13 credit available in a taxable year exceeds the taxpayer's
14 corporate income tax liability for that taxable year, the
15 excess may be carried forward for up to seven years.

16 K. If the total amount of a sustainable building
17 tax credit approved by the department is less than
18 twenty-five thousand dollars (\$25,000), the entire amount of
19 the credit may be applied against the taxpayer's corporate
20 income tax liability for the taxable year for which the
21 credit is approved. If the amount of the credit exceeds the
22 taxpayer's corporate income tax liability for that taxable
23 year, the excess may be carried forward for up to seven
24 years.

25 L. A taxpayer that otherwise qualifies and claims

.189003.1

underscored material = new
[bracketed material] = delete

1 a sustainable building tax credit with respect to a
2 sustainable building owned by a partnership or other business
3 association of which the taxpayer is a member may claim a
4 credit only in proportion to that taxpayer's interest in the
5 partnership or association. The total credit claimed in the
6 aggregate by all members of the partnership or association
7 with respect to the sustainable building shall not exceed the
8 amount of the credit that could have been claimed by a sole
9 owner of the property.

10 M. Beginning in 2014 and at six-year intervals
11 following 2014, the department shall present a report on the
12 sustainable building tax credit to the revenue stabilization
13 and tax policy committee for review. The committee, with the
14 aid of the department and the energy, minerals and natural
15 resources department, shall determine if a need remains for
16 the credit, if the credit is effectively being used for the
17 purpose for which it was created and if the use of the credit
18 is cost-effective. The credit may be proposed for repeal or
19 amendment if it is found by the committee to be ineffective,
20 more costly than is warranted by the purpose for which the
21 credit was proposed or unused or otherwise no longer needed.

22 [~~M.~~] N. For the purposes of this section:

23 (1) "build green New Mexico rating system"
24 means the certification standards adopted by the homebuilders
25 association of central New Mexico;

.189003.1

1 (2) "LEED-CI" means the LEED rating system
2 for commercial interiors;

3 (3) "LEED-CS" means the LEED rating system
4 for the core and shell of buildings;

5 (4) "LEED-EB" means the LEED rating system
6 for existing buildings;

7 (5) "LEED gold" means the rating in
8 compliance with, or exceeding, the second-highest rating
9 awarded by the LEED certification process;

10 (6) "LEED" means the most current leadership
11 in energy and environmental design green building rating
12 system guidelines developed and adopted by the United States
13 green building council;

14 (7) "LEED-H" means the LEED rating system
15 for homes;

16 (8) "LEED-NC" means the LEED rating system
17 for new buildings and major renovations;

18 (9) "LEED platinum" means the rating in
19 compliance with, or exceeding, the highest rating awarded by
20 the LEED certification process;

21 (10) "LEED silver" means the rating in
22 compliance with, or exceeding, the third-highest rating
23 awarded by the LEED certification process;

24 (11) "manufactured housing" means a
25 multisectioned home that is:

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 (a) a manufactured home or modular
2 home;

3 (b) a single-family dwelling with a
4 heated area of at least thirty-six feet by twenty-four feet
5 and a total area of at least eight hundred sixty-four square
6 feet;

7 (c) constructed in a factory to the
8 standards of the United States department of housing and
9 urban development, the National Manufactured Housing
10 Construction and Safety Standards Act of 1974 and the Housing
11 and Urban Development Zone Code 2 or New Mexico construction
12 codes up to the date of the unit's construction; and

13 (d) installed consistent with the
14 Manufactured Housing Act and rules adopted pursuant to that
15 act relating to permanent foundations;

16 (12) "qualified occupied square footage"
17 means the occupied spaces of the building as determined by:

18 (a) the United States green building
19 council for those buildings obtaining LEED certification;

20 (b) the administrators of the build
21 green New Mexico rating system for those homes obtaining
22 build green New Mexico certification; and

23 (c) the United States environmental
24 protection agency for ENERGY STAR-certified manufactured
25 homes;

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 (13) "person" does not include state, local
2 government, public school district or tribal agencies;

3 (14) "sustainable building" means either a
4 sustainable commercial building or a sustainable residential
5 building;

6 (15) "sustainable commercial building" means
7 a building that has been registered and certified under the
8 LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

9 (a) is certified by the United States
10 green building council at LEED silver or higher;

11 (b) achieves any prerequisite for and
12 at least one point related to commissioning under LEED
13 "energy and atmosphere", if included in the applicable rating
14 system; and

15 (c) has reduced energy consumption, as
16 follows: 1) through 2011, a fifty percent energy reduction
17 will be required based on the national average for that
18 building type as published by the United States department of
19 energy; and beginning January 1, 2012, a sixty percent energy
20 reduction will be required based on the national average for
21 that building type as published by the United States
22 department of energy; and 2) is substantiated by the United
23 States environmental protection agency target finder energy
24 performance results form, dated no sooner than the schematic
25 design phase of development;

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 (16) "sustainable residential building"

2 means:

3 (a) a building used as a single-family
4 residence as registered and certified under the build green
5 New Mexico or LEED-H rating systems that: 1) is certified by
6 the United States green building council as LEED-H silver or
7 higher or by build green New Mexico as silver or higher; and
8 2) has achieved a home energy rating system index of sixty or
9 lower as developed by the residential energy services
10 network;

11 (b) a multifamily dwelling unit, as
12 registered and certified under the LEED-H or build green New
13 Mexico rating system that: 1) is certified by the United
14 States green building council as LEED-H silver or higher or
15 by build green New Mexico as silver or higher; and 2) has
16 achieved a home energy rating system index of sixty or lower
17 as developed by the residential energy services network; or

18 (c) manufactured housing that is
19 ENERGY STAR-qualified by the United States environmental
20 protection agency; and

21 (17) "tribal" means of, belonging to or
22 created by a federally recognized Indian nation, tribe or
23 pueblo."

24 SECTION 18. Section 7-2A-23 NMSA 1978 (being Laws 2007,
25 Chapter 204, Section 8) is amended to read:

.189003.1

1 "7-2A-23. CREDIT--BLENDED BIODIESEL FUEL.--

2 A. A taxpayer that is liable for payment of the
3 special fuel excise tax pursuant to Subsections A through D
4 of Section 7-16A-2.1 NMSA 1978 and that files a New Mexico
5 corporate income tax return is eligible to claim a credit
6 against corporate income tax liability for each gallon of
7 blended biodiesel fuel on which that person paid the special
8 fuel excise tax in the taxable year or who would have paid
9 the special fuel excise tax in the taxable year but for the
10 deductions allowed pursuant to Subsections B through F of
11 Section 7-16A-10 NMSA 1978 or the treaty exemption for north
12 Atlantic treaty organization use. The credit shall be in the
13 following amounts for the following periods:

14 (1) from January 1, 2007 until December 31,
15 2010, at a rate of three cents (\$.03) per gallon;

16 (2) from January 1, 2011 until December 31,
17 2011, at a rate of two cents (\$.02) per gallon; and

18 (3) from January 1, 2012 until December 31,
19 2012, at a rate of one cent (\$.01) per gallon.

20 B. The tax credit provided by this section may
21 not be claimed with respect to the same blended biodiesel
22 fuel for which a credit has been claimed pursuant to the
23 Income Tax Act or for which a credit or refund has been
24 claimed pursuant to Section 7-16A-13 NMSA 1978.

25 C. A taxpayer that otherwise qualifies for and

.189003.1

underscored material = new
[bracketed material] = delete

1 claims a credit pursuant to this section for blended
2 biodiesel fuel on which special fuel excise tax has been paid
3 by a partnership or other business association of which the
4 taxpayer is a member may claim a credit only in proportion to
5 the taxpayer's interest in the partnership or business
6 association. The total credit claimed in the aggregate by
7 all members of the partnership or business association shall
8 not exceed the amount of credit allowed pursuant to
9 Subsection A of this section.

10 D. The tax credit provided by this section may
11 only be applied against the corporate income tax liability of
12 the person that paid the special fuel excise tax on the
13 blended biodiesel fuel with respect to which the credit is
14 provided or that would have paid the special fuel excise tax
15 but for the deductions allowed pursuant to Subsections B
16 through F of Section 7-16A-10 NMSA 1978 or the treaty
17 exemption for north Atlantic treaty organization use. If the
18 credit exceeds the person's corporate income tax liability
19 for the taxable year in which the credit is granted, the
20 credit may be carried forward for five years.

21 E. A taxpayer claiming a credit pursuant to this
22 section shall provide documentation of eligibility in form
23 and content as determined by the department.

24 F. Beginning in 2014 and at six-year intervals
25 following 2014, the department shall present a report on the

.189003.1

underscored material = new
[bracketed material] = delete

1 tax credit provided pursuant to this section to the revenue
2 stabilization and tax policy committee for review. The
3 committee, with the aid of the department and the energy,
4 minerals and natural resources department, shall determine if
5 a need remains for the credit, if the credit is effectively
6 being used for the purpose for which it was created and if
7 the use of the credit is cost-effective. The credit may be
8 proposed for repeal or amendment if it is found by the
9 committee to be ineffective, more costly than is warranted by
10 the purpose for which the credit was proposed or unused or
11 otherwise no longer needed.

12 [~~F.~~] G. For the purposes of this section:

13 (1) "biodiesel" means renewable,
14 biodegradable, monoalkyl ester combustible liquid fuel that
15 is derived from agricultural plant oils or animal fats and
16 that meets American society for testing and materials D 6751
17 standard specification for biodiesel B100 blend stock for
18 distillate fuels;

19 (2) "blended biodiesel fuel" means a diesel
20 fuel that contains at least two percent biodiesel; and

21 (3) "diesel fuel" means any diesel-engine
22 fuel used for the generation of power to propel a motor
23 vehicle."

24 SECTION 19. Section 7-2A-24 NMSA 1978 (being Laws 2009,
25 Chapter 271, Section 2) is amended to read:

.189003.1

underscored material = new
~~[bracketed material] = delete~~

1 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
2 CREDIT.--

3 A. A taxpayer that files a New Mexico corporate
4 income tax return for a taxable year beginning on or after
5 January 1, 2010 and that purchases and installs after January
6 1, 2010 but before December 31, 2020 a geothermal ground-
7 coupled heat pump in a property owned by the taxpayer may
8 claim against the taxpayer's corporate income tax liability,
9 and the department may allow, a tax credit of up to thirty
10 percent of the purchase and installation costs of the system.
11 The credit provided in this section may be referred to as the
12 "geothermal ground-coupled heat pump tax credit". The total
13 geothermal ground-coupled heat pump tax credit allowed to a
14 taxpayer shall not exceed nine thousand dollars (\$9,000).
15 The department shall allow a geothermal ground-coupled heat
16 pump tax credit only for geothermal ground-coupled heat pumps
17 certified by the energy, minerals and natural resources
18 department.

19 B. A portion of the geothermal ground-coupled
20 heat pump tax credit that remains unused in a taxable year
21 may be carried forward for a maximum of ten consecutive
22 taxable years following the taxable year in which the credit
23 originates until the credit is fully expended.

24 C. Prior to July 1, 2010, the energy, minerals
25 and natural resources department shall adopt rules

.189003.1

underscored material = new
[bracketed material] = delete

1 establishing procedures to provide certification of
2 geothermal ground-coupled heat pumps for purposes of
3 obtaining a geothermal ground-coupled heat pump tax credit.
4 The rules shall address technical specifications and
5 requirements relating to safety, building code and standards
6 compliance, minimum system sizes, system applications and
7 lists of eligible components. The energy, minerals and
8 natural resources department may modify the specifications
9 and requirements as necessary to maintain a high level of
10 system quality and performance.

11 D. The department may allow a maximum annual
12 aggregate of two million dollars (\$2,000,000) in geothermal
13 ground-coupled heat pump tax credits. Applications for the
14 credit shall be considered in the order received by the
15 department.

16 E. Beginning in 2014 and at six-year intervals
17 following 2014, the department shall present a report on the
18 geothermal ground-coupled heat pump tax credit to the revenue
19 stabilization and tax policy committee for review. The
20 committee, with the aid of the department and the energy,
21 minerals and natural resources department, shall determine if
22 a need remains for the credit, if the credit is effectively
23 being used for the purpose for which it was created and if
24 the use of the credit is cost-effective. The credit may be
25 proposed for repeal or amendment if it is found by the

.189003.1

underscored material = new
[bracketed material] = delete

1 committee to be ineffective, more costly than is warranted by
2 the purpose for which the credit was proposed or unused or
3 otherwise no longer needed.

4 [E-] F. As used in this section, "geothermal
5 ground-coupled heat pump" means a reversible refrigerator
6 device that provides space heating, space cooling, domestic
7 hot water, processed hot water, processed chilled water or
8 any other application where hot air, cool air, hot water or
9 chilled water is required and that utilizes ground water or
10 water circulating through pipes buried in the ground as a
11 condenser in the cooling mode and an evaporator in the
12 heating mode."

13 SECTION 20. Section 7-2E-1.1 NMSA 1978 (being Laws
14 2007, Chapter 172, Section 2) is amended to read:

15 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

16 A. The tax credit created by this section may be
17 referred to as the "rural job tax credit". Every eligible
18 employer may apply for, and the taxation and revenue
19 department may allow, a tax credit for each qualifying job
20 the employer creates. The maximum tax credit amount with
21 respect to each qualifying job is equal to:

- 22 (1) twenty-five percent of the first sixteen
- 23 thousand dollars (\$16,000) in wages paid for the qualifying
- 24 job if the job is performed or based at a location in a tier
- 25 one area; or

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 (2) twelve and one-half percent of the first
2 sixteen thousand dollars (\$16,000) in wages paid if the
3 qualifying job is performed or based at a location in a tier
4 two area.

5 B. The amount of the rural job tax credit shall
6 be six and one-fourth percent of the first sixteen thousand
7 dollars (\$16,000) in wages paid for the qualifying job in a
8 qualifying period. The rural job tax credit may be claimed
9 for each qualifying job for a maximum of:

10 (1) four qualifying periods for each
11 qualifying job performed or based at a location in a tier one
12 area; and

13 (2) two qualifying periods for each
14 qualifying job performed or based at a location in a tier two
15 area.

16 C. With respect to each qualifying job for which
17 an eligible employer seeks the rural job tax credit, the
18 employer shall certify the amount of wages paid to each
19 eligible employee during each qualifying period, the number
20 of weeks during the qualifying period the position was
21 occupied and whether the qualifying job was in a tier one or
22 tier two area.

23 D. The economic development department shall
24 determine which employers are eligible employers and shall
25 report the listing of eligible businesses to the taxation and

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 revenue department in a manner and at times the departments
2 shall agree upon.

3 E. To receive a rural job tax credit with respect
4 to any qualifying period, an eligible employer must apply to
5 the taxation and revenue department on forms and in the
6 manner the department may prescribe. The application shall
7 include a certification made pursuant to Subsection C of this
8 section. If all the requirements of this section have been
9 complied with, the taxation and revenue department may issue
10 to the applicant a document granting a tax credit for the
11 appropriate qualifying period. The tax credit document shall
12 be numbered for identification and declare its date of
13 issuance and the amount of rural job tax credit allowed for
14 the respective jobs created. The tax credit documents may be
15 sold, exchanged or otherwise transferred and may be carried
16 forward for a period of three years from the date of
17 issuance. The parties to such a transaction to sell,
18 exchange or transfer a rural job tax credit document shall
19 notify the department of the transaction within ten days of
20 the sale, exchange or transfer.

21 F. The holder of the tax credit document may
22 apply all or a portion of the rural job tax credit granted by
23 the document against the holder's modified combined tax
24 liability, personal income tax liability or corporate income
25 tax liability. Any balance of rural job tax credit granted

.189003.1

underscored material = new
[bracketed material] = delete

1 by the document may be carried forward for up to three years
2 from the date of issuance of the tax credit document. No
3 amount of rural job tax credit may be applied against a gross
4 receipts tax imposed by a municipality or county.

5 G. Notwithstanding the provisions of Section
6 7-1-8 NMSA 1978, the taxation and revenue department may
7 disclose to any person the balance of rural job tax credit
8 remaining on any tax credit document and the balance of
9 credit remaining on that document for any period.

10 ~~[H. The secretary of economic development, the~~
11 ~~secretary of taxation and revenue and the secretary of labor~~
12 ~~or their designees shall annually evaluate the effectiveness~~
13 ~~of the rural job tax credit in stimulating economic~~
14 ~~development in the rural areas of New Mexico and make a joint~~
15 ~~report of their findings to each session of the legislature~~
16 ~~so long as the rural job tax credit is in effect.]~~

17 H. A taxpayer allowed a credit by the department
18 pursuant to this section shall report annually by June 30 on
19 the activities of the taxpayer in the preceding calendar year
20 to the department on a form developed by the department to
21 obtain information necessary to analyze the effectiveness of
22 the credit, determine if the credit is being used for the
23 purpose for which it was created and assess whether the
24 credit is cost-effective.

25 I. An eligible employer that creates a qualifying

underscored material = new
[bracketed material] = delete

1 job in the period beginning on or after July 1, 2006 but
2 before July 1, 2007 or creates a qualifying job, the
3 qualifying period of which includes a part of the period
4 between July 1, 2006 and July 1, 2007, for which the eligible
5 employer has not received a rural job tax credit document
6 pursuant to this section may submit an application for, and
7 the department may issue to the eligible employer applying, a
8 document granting a tax credit for the appropriate qualifying
9 period. Claims for a rural job tax credit submitted pursuant
10 to the provisions of this subsection shall be submitted
11 within three years from the date of issuance of the rural job
12 tax credit document.

13 J. Beginning in 2014 and at six-year intervals
14 following 2014, the taxation and revenue department shall
15 present a report on the rural job tax credit to the revenue
16 stabilization and tax policy committee for review. The
17 committee, with the aid of the taxation and revenue
18 department, the workforce solutions department and the
19 economic development department, shall determine if a need
20 remains for the credit, if the credit is effectively being
21 used for the purpose for which it was created and if the use
22 of the credit is cost-effective. The credit may be proposed
23 for repeal or amendment if it is found by the committee to be
24 ineffective, more costly than is warranted by the purpose for
25 which the credit was proposed or unused or otherwise no

.189003.1

underscored material = new
[bracketed material] = delete

1 longer needed.

2 [J-] K. As used in this section:

3 (1) "eligible employee" means any individual
4 other than an individual who:

5 (a) bears any of the relationships
6 described in Paragraphs (1) through (8) of 26 U.S.C. Section
7 152(a) to the employer or, if the employer is a corporation,
8 to an individual who owns, directly or indirectly, more than
9 fifty percent in value of the outstanding stock of the
10 corporation or, if the employer is an entity other than a
11 corporation, to any individual who owns, directly or
12 indirectly, more than fifty percent of the capital and
13 profits interests in the entity;

14 (b) if the employer is an estate or
15 trust, is a grantor, beneficiary or fiduciary of the estate
16 or trust or is an individual who bears any of the
17 relationships described in Paragraphs (1) through (8) of 26
18 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary
19 of the estate or trust; or

20 (c) is a dependent, as that term is
21 described in 26 U.S.C. Section 152(a)(9), of the employer or,
22 if the taxpayer is a corporation, of an individual who owns,
23 directly or indirectly, more than fifty percent in value of
24 the outstanding stock of the corporation or, if the employer
25 is an entity other than a corporation, of any individual who

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 owns, directly or indirectly, more than fifty percent of the
2 capital and profits interests in the entity or, if the
3 employer is an estate or trust, of a grantor, beneficiary or
4 fiduciary of the estate or trust;

5 (2) "eligible employer" means an employer
6 who has been approved for in-plant training assistance
7 pursuant to Section 21-19-7 NMSA 1978;

8 (3) "metropolitan statistical area" means a
9 metropolitan statistical area in New Mexico as determined by
10 the United States bureau of the census;

11 (4) "modified combined tax liability" means
12 the total liability for the reporting period for the gross
13 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
14 any tax collected at the same time and in the same manner as
15 that gross receipts tax, such as the compensating tax, the
16 withholding tax, the interstate telecommunications gross
17 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
18 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
19 minus the amount of any credit other than the rural job tax
20 credit applied against any or all of these taxes or
21 surcharges; but "modified combined tax liability" excludes
22 all amounts collected with respect to local option gross
23 receipts taxes;

24 (5) "qualifying job" means a job established
25 by the employer that is occupied by an eligible employee for

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 at least forty-eight weeks of a qualifying period;

2 (6) "qualifying period" means the period of
3 twelve months beginning on the day an eligible employee
4 begins working in a qualifying job or the period of twelve
5 months beginning on the anniversary of the day an eligible
6 employee began working in a qualifying job;

7 (7) "rural area" means any part of the state
8 other than:

9 (a) an H class county;
10 (b) the state fairgrounds;
11 (c) an incorporated municipality
12 within a metropolitan statistical area if the municipality's
13 population is thirty thousand or more according to the most
14 recent federal decennial census; and

15 (d) any area within ten miles of the
16 exterior boundaries of a municipality described in
17 Subparagraph (c) of this paragraph;

18 (8) "tier one area" means:

19 (a) any municipality within the rural
20 area if the municipality's population according to the most
21 recent federal decennial census is fifteen thousand or less;
22 or

23 (b) any part of the rural area that is
24 not within the exterior boundaries of a municipality;

25 (9) "tier two area" means any municipality

.189003.1

underscored material = new
[bracketed material] = delete

1 within the rural area if the municipality's population
2 according to the most recent federal decennial census is more
3 than fifteen thousand; and

4 (10) "wages" means wages as defined by
5 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

6 SECTION 21. A new section of the Gross Receipts and
7 Compensating Tax Act is enacted to read:

8 "[NEW MATERIAL] TAX CREDITS--TAXPAYER REPORTING
9 REQUIREMENTS.--A taxpayer allowed a credit by the department
10 pursuant to Section 7-9-79.2, 7-9-96.1 or 7-9-96.2 NMSA 1978,
11 or any other tax credit enacted pursuant to the Gross
12 Receipts and Compensating Tax Act after January 1, 2012,
13 shall report to the department by August 31 following each
14 state fiscal year in which the credit is claimed by the
15 taxpayer. The report shall be on a form developed by the
16 department to obtain information necessary to analyze the
17 effectiveness of the credit, determine if the credit is being
18 used for the purpose for which it was created and assess
19 whether the credit is cost-effective."

20 SECTION 22. Section 7-9-79.2 NMSA 1978 (being Laws
21 2007, Chapter 204, Section 9) is amended to read:

22 "7-9-79.2. GROSS RECEIPTS TAX--COMPENSATING TAX--
23 BIODIESEL BLENDING FACILITY TAX CREDIT.--

24 A. A taxpayer who is a rack operator as defined
25 in the Special Fuels Supplier Tax Act and who installs

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 biodiesel blending equipment in property owned by the
2 taxpayer for the purpose of establishing or expanding a
3 facility to produce blended biodiesel fuel is eligible to
4 claim a credit against gross receipts tax or compensating
5 tax. The credit shall be an amount equal to thirty percent
6 of the purchase cost of the equipment plus thirty percent of
7 the cost of installing that equipment. The credit provided
8 by this section may be referred to as the "biodiesel blending
9 facility tax credit".

10 B. The biodiesel blending facility tax credit
11 shall not exceed fifty thousand dollars (\$50,000) with
12 respect to equipment installed at any one facility.

13 C. Upon application from a taxpayer wishing to
14 claim the biodiesel blending facility tax credit, the energy,
15 minerals and natural resources department shall determine if
16 the equipment for which the tax credit will be claimed meets
17 the requirements of this section and if purchase and
18 installation costs reported by the taxpayer are legitimate.
19 Upon these determinations being made in favor of the
20 taxpayer, the energy, minerals and natural resources
21 department shall issue a dated certificate of eligibility
22 containing this information and an estimate of the amount of
23 the biodiesel blending facility tax credit for which the
24 taxpayer is eligible.

25 D. To claim the biodiesel blending facility tax

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 credit, the taxpayer shall provide to the taxation and
2 revenue department the certificate of eligibility from the
3 energy, minerals and natural resources department. Upon
4 receipt of the certificate, the taxation and revenue
5 department shall approve the claim for the credit if the
6 total cumulative amount of approved claims for the credit for
7 all taxpayers for the calendar year does not exceed one
8 million dollars (\$1,000,000). The department shall maintain
9 a record of the cumulative amount of claims for the credit
10 that have been approved and when it determines that this
11 cumulative amount has reached one million dollars
12 (\$1,000,000), it shall cease approving any additional claims
13 for the biodiesel blending facility tax credit.

14 E. If a taxpayer who has received the biodiesel
15 blending facility tax credit ceases biodiesel blending
16 without completing at least one hundred eighty days of
17 availability of the facility within the first three hundred
18 sixty-five days after the issuance of the certificate of
19 eligibility from the energy, minerals and natural resources
20 department, any amount of approved credit not applied against
21 the taxpayer's gross receipts tax or compensating tax
22 liability shall be extinguished. The taxpayer must amend the
23 taxpayer's return, self-assess the tax owed and return any
24 biodiesel blending facility tax credit received within four
25 hundred twenty-five days of the date of issuance of the

.189003.1

underscored material = new
[bracketed material] = delete

1 certificate of eligibility.

2 F. The tax credit provided by this section may
3 only be applied against the taxpayer's gross receipts tax
4 liability or compensating tax liability. If the credit
5 exceeds the taxpayer's tax liability in the reporting period
6 for which it is granted, the credit may be carried forward
7 for four years from the date of the certificate of
8 eligibility.

9 G. Beginning in 2014 and at six-year intervals
10 following 2014, the department shall present a report on the
11 biodiesel blending facility tax credit to the revenue
12 stabilization and tax policy committee for review. The
13 committee, with the aid of the department and the energy,
14 minerals and natural resources department, shall determine if
15 a need remains for the credit, if the credit is effectively
16 being used for the purpose for which it was created and if
17 the use of the credit is cost-effective. The credit may be
18 proposed for repeal or amendment if it is found by the
19 committee to be ineffective, more costly than is warranted by
20 the purpose for which the credit was proposed or unused or
21 otherwise no longer needed.

22 [~~G.~~] H. For the purposes of this section:

23 (1) "biodiesel" means renewable,
24 biodegradable, monoalkyl ester combustible liquid fuel that
25 is derived from agricultural plant oils or animal fats and

.189003.1

underscored material = new
[bracketed material] = delete

1 that meets American society for testing and materials D 6751
2 standard specification for biodiesel B100 blend stock for
3 distillate fuels;

4 (2) "biodiesel blending equipment" means
5 equipment necessary for the process of blending biodiesel
6 with diesel fuel to produce blended biodiesel fuel;

7 (3) "blended biodiesel fuel" means a diesel
8 fuel that contains at least two percent biodiesel; and

9 (4) "diesel fuel" means any diesel-engine
10 fuel used for the generation of power to propel a motor
11 vehicle."

12 SECTION 23. Section 7-9-96.1 NMSA 1978 (being Laws
13 2007, Chapter 361, Section 7) is amended to read:

14 "7-9-96.1. CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF
15 CERTAIN HOSPITALS.--

16 A. A hospital licensed by the department of
17 health may claim a credit for each reporting period against
18 the gross receipts tax due for that reporting period as
19 follows:

20 (1) for a hospital located in a
21 municipality:

22 (a) on or after July 1, 2007 but
23 before July 1, 2008, in an amount equal to seven hundred
24 fifty-five thousandths percent of the hospital's taxable
25 gross receipts for that reporting period after all applicable

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 deductions have been taken;

2 (b) on or after July 1, 2008 but
3 before July 1, 2009, in an amount equal to one and fifty-one
4 hundredths percent of the hospital's taxable gross receipts
5 for that reporting period after all applicable deductions
6 have been taken;

7 (c) on or after July 1, 2009 but
8 before July 1, 2010, in an amount equal to two and two
9 hundred sixty-five thousandths percent of the hospital's
10 taxable gross receipts for that reporting period after all
11 applicable deductions have been taken;

12 (d) on or after July 1, 2010 but
13 before July 1, 2011, in an amount equal to three and two
14 hundredths percent of the hospital's taxable gross receipts
15 for that reporting period after all applicable deductions
16 have been taken; and

17 (e) on or after July 1, 2011, in an
18 amount equal to three and seven hundred seventy-five
19 thousandths percent of the hospital's taxable gross receipts
20 for that reporting period after all applicable deductions
21 have been taken; and

22 (2) for a hospital located in the
23 unincorporated area of a county:

24 (a) on or after July 1, 2007 but
25 before July 1, 2008, in an amount equal to one percent of the

.189003.1

underscored material = new
[bracketed material] = delete

1 hospital's taxable gross receipts for that reporting period
2 after all applicable deductions have been taken;

3 (b) on or after July 1, 2008 but
4 before July 1, 2009, in an amount equal to two percent of the
5 hospital's taxable gross receipts for that reporting period
6 after all applicable deductions have been taken;

7 (c) on or after July 1, 2009 but
8 before July 1, 2010, in an amount equal to three percent of
9 the hospital's taxable gross receipts for that reporting
10 period after all applicable deductions have been taken;

11 (d) on or after July 1, 2010 but
12 before July 1, 2011, in an amount equal to four percent of
13 the hospital's taxable gross receipts for that reporting
14 period after all applicable deductions have been taken; and

15 (e) on or after July 1, 2011, in an
16 amount equal to five percent of the hospital's taxable gross
17 receipts for that reporting period after all applicable
18 deductions have been taken.

19 B. Beginning in 2014 and at six-year intervals
20 following 2014, the department shall present a report on the
21 credits provided pursuant to this section to the revenue
22 stabilization and tax policy committee for review. The
23 committee, with the aid of the department, shall determine if
24 a need remains for the credits, if the credits are
25 effectively being used for the purpose for which they were

.189003.1

underscored material = new
[bracketed material] = delete

1 created and if the use of the credits is cost-effective. The
2 credits may be proposed for repeal or amendment if they are
3 found by the committee to be ineffective, more costly than is
4 warranted by the purpose for which the credits were proposed
5 or unused or otherwise no longer needed.

6 [B-] C. For the purposes of this section,
7 "hospital" means a facility providing emergency or urgent
8 care, inpatient medical care and nursing care for acute
9 illness, injury, surgery or obstetrics and includes a
10 facility licensed by the department of health as a critical
11 access hospital, general hospital, long-term acute care
12 hospital, psychiatric hospital, rehabilitation hospital,
13 limited services hospital and special hospital."

14 SECTION 24. Section 7-9-96.2 NMSA 1978 (being Laws
15 2007, Chapter 361, Section 8) is amended to read:

16 "7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES
17 FOR SERVICES PROVIDED IN A HOSPITAL.--

18 A. A licensed medical doctor or licensed
19 osteopathic physician may claim a credit against gross
20 receipts taxes due in the following amounts:

21 (1) from July 1, 2007 through June 30, 2008,
22 thirty-three percent of the value of unpaid qualified health
23 care services;

24 (2) from July 1, 2008 through June 30, 2009,
25 sixty-seven percent of the value of unpaid qualified health

.189003.1

underscored material = new
[bracketed material] = delete

1 care services; and

2 (3) on and after July 1, 2009, one hundred
3 percent of the value of unpaid qualified health care
4 services.

5 B. Beginning in 2014 and at six-year intervals
6 following 2014, the department shall present a report on the
7 credit provided pursuant to this section to the revenue
8 stabilization and tax policy committee for review. The
9 committee, with the aid of the department, shall determine if
10 a need remains for the credit, if the credit is effectively
11 being used for the purpose for which it was created and if
12 the use of the credit is cost-effective. The credit may be
13 proposed for repeal or amendment if it is found by the
14 committee to be ineffective, more costly than is warranted by
15 the purpose for which the credit was proposed or unused or
16 otherwise no longer needed.

17 [~~B.~~] C. As used in this section:

18 (1) "qualified health care services" means
19 medical care services provided by a licensed medical doctor
20 or licensed osteopathic physician while on call to a
21 hospital; and

22 (2) "value of unpaid qualified health care
23 services" means the amount that is charged for qualified
24 health care services, not to exceed one hundred thirty
25 percent of the reimbursement rate for the services under the

.189003.1

underscored material = new
[bracketed material] = delete

1 medicaid program administered by the human services
2 department, that remains unpaid one year after the date of
3 billing and that the licensed medical doctor or licensed
4 osteopathic physician has reason to believe will not be paid
5 because:

6 (a) at the time the services were
7 provided, the person receiving the services had no health
8 insurance or had health insurance that did not cover the
9 services provided;

10 (b) at the time the services were
11 provided, the person receiving the services was not eligible
12 for medicaid; and

13 (c) the charges are not reimbursable
14 under a program established pursuant to the Indigent Hospital
15 and County Health Care Act."

16 **SECTION 25.** A new section of the Investment Credit Act
17 is enacted to read:

18 "[NEW MATERIAL] TAX CREDIT--TAXPAYER REPORTING
19 REQUIREMENTS.--A taxpayer allowed a credit by the department
20 pursuant to the Investment Credit Act shall report to the
21 department by August 31 following each state fiscal year in
22 which the credit is claimed by the taxpayer. The report
23 shall be on a form developed by the department to obtain
24 information necessary to analyze the effectiveness of the
25 investment credit, determine if the credit is being used for

.189003.1

underscored material = new
[bracketed material] = delete

1 the purpose for which it was created and assess whether the
2 credit is cost-effective."

3 SECTION 26. Section 7-9A-2.1 NMSA 1978 (being Laws
4 2001, Chapter 57, Section 2 and Laws 2001, Chapter 337,
5 Section 2) is amended to read:

6 "7-9A-2.1. LEGISLATIVE OVERSIGHT.--~~[The interim revenue~~
7 ~~stabilization and tax policy committee during the 2005~~
8 ~~interim shall conduct a review of the use of the investment~~
9 ~~credit and the effectiveness of the credit in meeting the~~
10 ~~state's economic development and tax policy objectives.~~

11 ~~Following the study, the committee shall determine whether~~
12 ~~changes are necessary in the Investment Credit Act and report~~
13 ~~its findings and recommendations to the second session of the~~
14 ~~forty-seventh legislature]~~ Beginning in 2014 and at six-year

15 intervals following 2014, the department shall present a
16 report on the credit provided pursuant to the Investment
17 Credit Act to the revenue stabilization and tax policy
18 committee for review. The committee, with the aid of the
19 department and the economic development department, shall
20 determine if a need remains for the credit, if the credit is
21 effectively being used for the purpose for which it was
22 created and if the use of the credit is cost-effective. The
23 credit may be proposed for repeal or amendment if it is found
24 by the committee to be ineffective, more costly than is
25 warranted by the purpose for which the credit was proposed or

.189003.1

underscored material = new
[bracketed material] = delete

1 unused or otherwise no longer needed."

2 SECTION 27. Section 7-9E-11 NMSA 1978 (being Laws 2007,
3 Chapter 172, Section 20) is amended to read:

4 "7-9E-11. REPORTING.--

5 A. By August 31 following the end of each state
6 fiscal year, a taxpayer that has claimed a tax credit
7 pursuant to the Laboratory Partnership with Small Business
8 Tax Credit Act shall submit to the department an information
9 report on a form developed by the department to obtain
10 information necessary to analyze the effectiveness of the tax
11 credit, determine if the credit is being used for the purpose
12 for which it was created and assess whether the credit is
13 cost-effective.

14 [~~A.~~] B. By October 15 of each year, a national
15 laboratory that has claimed a tax credit pursuant to the
16 Laboratory Partnership with Small Business Tax Credit Act for
17 the previous calendar year shall submit an annual report in
18 writing to the department, the economic development
19 department and an appropriate legislative interim committee.

20 [~~B.~~] C. If more than one national laboratory
21 claims a tax credit pursuant to the Laboratory Partnership
22 with Small Business Tax Credit Act for the previous calendar
23 year, those laboratories shall jointly submit an annual
24 report to the department, the economic development department
25 and an appropriate legislative interim committee no later

.189003.1

underscored material = new
[bracketed material] = delete

1 than October 15 following the calendar year in which the
2 small business assistance was provided.

3 ~~[G.]~~ D. An annual report shall summarize
4 activities related to and the results of the small business
5 assistance programs that were provided by one or more
6 national laboratories and shall include:

7 (1) a summary of the program results and the
8 number of small businesses assisted in each county;

9 (2) a description of the projects involving
10 multiple small businesses;

11 (3) results of surveys of small businesses
12 to which small business assistance is provided;

13 (4) the total amount of the tax credits
14 claimed pursuant to the Laboratory Partnership with Small
15 Business Tax Credit Act for the year on which the report is
16 based; and

17 (5) an economic impact study of jobs
18 created, jobs retained, cost savings and increased sales
19 generated by small businesses for which small business
20 assistance is provided.

21 ~~[D.]~~ E. At any time after receipt of an annual
22 report required pursuant to this section from one or more
23 national laboratories eligible for tax credits authorized
24 pursuant to the Laboratory Partnership with Small Business
25 Tax Credit Act, the department or the economic development

.189003.1

underscored material = new
[bracketed material] = delete

1 department may provide written instructions to a national
2 laboratory identifying future improvements in the
3 laboratory's small business assistance program for which it
4 receives that tax credit.

5 F. Beginning in 2014 and at six-year intervals
6 following 2014, the department shall present a report on the
7 credits provided pursuant to the Laboratory Partnership with
8 Small Business Tax Credit Act to the revenue stabilization
9 and tax policy committee for review. The committee, with the
10 aid of the department and the economic development
11 department, shall determine if a need remains for the
12 credits, if the credits are effectively being used for the
13 purpose for which they were created and if the use of the
14 credits is cost-effective. The credits may be proposed for
15 repeal or amendment if they are found by the committee to be
16 ineffective, more costly than is warranted by the purpose for
17 which the credits were proposed or unused or otherwise no
18 longer needed."

19 SECTION 28. Section 7-9F-1 NMSA 1978 (being Laws 2000
20 (2nd S.S.), Chapter 22, Section 1) is amended to read:

21 "7-9F-1. SHORT TITLE.--~~[This act]~~ Chapter 7, Article 9F
22 NMSA 1978 may be cited as the "Technology Jobs Tax Credit
23 Act"."

24 SECTION 29. A new section of the Technology Jobs Tax
25 Credit Act is enacted to read:

.189003.1

1 "[NEW MATERIAL] TAX CREDIT--TAXPAYER REPORTING

2 REQUIREMENTS.--A taxpayer allowed a credit by the department
3 pursuant to the Technology Jobs Tax Credit Act shall report
4 to the department by August 31 following each state fiscal
5 year in which the credit is claimed by the taxpayer. The
6 report shall be on a form developed by the department to
7 obtain information necessary to analyze the effectiveness of
8 the credit, determine if the credit is being used for the
9 purpose for which it was created and assess whether the
10 credit is cost-effective."

11 SECTION 30. Section 7-9F-12 NMSA 1978 (being Laws 2000
12 (2nd S.S.), Chapter 22, Section 12) is amended to read:

13 "7-9F-12. DEPARTMENT REPORT.--

14 A. In October 2003 and each year thereafter, the
15 department shall report to the legislative finance committee
16 and the revenue stabilization and tax policy committee on the
17 fiscal and economic impacts of the Technology Jobs Tax Credit
18 Act using the most recently available data for the two prior
19 fiscal years. The report shall include the number of
20 taxpayers who have received basic credits or additional
21 credits under the Technology Jobs Tax Credit Act, the amounts
22 of the basic credits and additional credits, the geographic
23 locations of the qualified facilities and the payroll
24 increases of taxpayers related to additional credits, subject
25 to the confidentiality provisions of Section 7-1-8 NMSA 1978.

.189003.1

underscored material = new
[bracketed material] = delete

1 B. Beginning in 2014 and at six-year intervals
2 following 2014, in addition to the annual reports required in
3 Subsection A of this section, the department shall present a
4 report that analyzes the credits provided pursuant to the
5 Techonology Jobs Tax Credit Act to the revenue stabilization
6 and tax policy committee for the purpose of facilitating the
7 review by that committee of those credits. The revenue
8 stabilization and tax policy committee, with the aid of the
9 department and the economic development department, shall
10 determine if a need remains for the credits, if the credits
11 are effectively being used for the purpose for which they
12 were created and if the use of the credits is cost-effective.
13 The credits may be proposed for repeal or amendment if they
14 are found by the committee to be ineffective, more costly
15 than is warranted by the purpose for which the credits were
16 proposed or unused or otherwise no longer needed."

17 SECTION 31. Section 7-9G-1 NMSA 1978 (being Laws 2004,
18 Chapter 15, Section 1, as amended) is amended to read:

19 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING
20 HIGH-WAGE JOBS.--

21 A. A taxpayer who is an eligible employer may
22 apply for, and the taxation and revenue department may allow,
23 a tax credit for each new high-wage economic-based job. The
24 credit provided in this section may be referred to as the
25 "high-wage jobs tax credit".

.189003.1

underscoring material = new
[bracketed material] = delete

1 B. The high-wage jobs tax credit may be claimed
2 and allowed in an amount equal to ten percent of the wages
3 and benefits distributed to an eligible employee in a new
4 high-wage economic-based job, but shall not exceed twelve
5 thousand dollars (\$12,000).

6 C. The high-wage jobs tax credit may be claimed
7 by an eligible employer for each new high-wage economic-based
8 job performed for the year in which the new high-wage
9 economic-based job is created and for the three following
10 qualifying periods.

11 D. A new high-wage economic-based job shall not
12 be eligible for a credit pursuant to this section unless the
13 eligible employer's total number of employees with new high-
14 wage economic-based jobs on the last day of the qualifying
15 period at the location at which the job is performed or based
16 is at least one more than the number on the day prior to the
17 date the job was created.

18 E. With respect to each new high-wage economic-
19 based job for which an eligible employer seeks the high-wage
20 jobs tax credit, the employer shall certify:

21 (1) the amount of wages paid to each
22 eligible employee in a new high-wage economic-based job
23 during each qualifying period;

24 (2) the number of weeks the position was
25 occupied during the qualifying period;

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 (3) whether the new high-wage economic-based
2 job was in a municipality with a population of forty thousand
3 or more or with a population of less than forty thousand
4 according to the most recent federal decennial census and
5 whether the job was in the unincorporated area of a county;
6 and

7 (4) the total number of employees employed
8 by the employer at the job location on the day prior to the
9 qualifying period and on the last day of the qualifying
10 period.

11 F. To receive a high-wage jobs tax credit with
12 respect to any qualifying period, an eligible employer shall
13 apply to the taxation and revenue department on forms and in
14 the manner prescribed by the department. The application
15 shall include a certification made pursuant to Subsection E
16 of this section.

17 G. The credit provided in this section may be
18 deducted from the modified combined tax liability of a
19 taxpayer. If the credit exceeds the modified combined tax
20 liability of the taxpayer, the excess shall be refunded to
21 the taxpayer.

22 H. The economic development department shall
23 report to the appropriate interim legislative committee
24 before November 1 of each year the cost of this tax credit to
25 the state and its impact on company recruitment and job

.189003.1

underscored material = new
[bracketed material] = delete

1 creation.

2 I. Beginning in 2014 and at six-year intervals
3 following 2014, the taxation and revenue department shall
4 present a report on the high-wage jobs tax credit to the
5 revenue stabilization and tax policy committee for review.
6 The committee, with the aid of the taxation and revenue
7 department and the economic development department, shall
8 determine if a need remains for the credit, if the credit is
9 effectively being used for the purpose for which it was
10 created and if the use of the credit is cost-effective. The
11 credit may be proposed for repeal or amendment if it is found
12 by the committee to be ineffective, more costly than is
13 warranted by the purpose for which the credit was proposed or
14 unused or otherwise no longer needed.

15 [~~I.~~] J. As used in this section:

16 (1) "benefits" means any employee benefit
17 plan as defined in Title 1, Section 3 of the federal Employee
18 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

19 (2) "eligible employee" means an individual
20 who is employed by an eligible employer and who is a resident
21 of New Mexico; "eligible employee" does not include an
22 individual who:

23 (a) bears any of the relationships
24 described in Paragraphs (1) through (8) of 26 U.S.C. Section
25 152(a) to the employer or, if the employer is a corporation,

.189003.1

underscoring material = new
~~[bracketed material]~~ = delete

1 to an individual who owns, directly or indirectly, more than
2 fifty percent in value of the outstanding stock of the
3 corporation or, if the employer is an entity other than a
4 corporation, to an individual who owns, directly or
5 indirectly, more than fifty percent of the capital and
6 profits interest in the entity;

7 (b) if the employer is an estate or
8 trust, is a grantor, beneficiary or fiduciary of the estate
9 or trust or is an individual who bears any of the
10 relationships described in Paragraphs (1) through (8) of 26
11 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary
12 of the estate or trust;

13 (c) is a dependent, as that term is
14 described in 26 U.S.C. Section 152(a)(9), of the employer or,
15 if the taxpayer is a corporation, of an individual who owns,
16 directly or indirectly, more than fifty percent in value of
17 the outstanding stock of the corporation or, if the employer
18 is an entity other than a corporation, of an individual who
19 owns, directly or indirectly, more than fifty percent of the
20 capital and profits interest in the entity or, if the
21 employer is an estate or trust, of a grantor, beneficiary or
22 fiduciary of the estate or trust; or

23 (d) is working or has worked as an
24 employee or as an independent contractor for an entity that
25 directly or indirectly owns stock in a corporation of the

.189003.1

underscoring material = new
~~[bracketed material] = delete~~

1 eligible employer or other interest of the eligible employer
2 that represents fifty percent or more of the total voting
3 power of that entity or has a value equal to fifty percent or
4 more of the capital and profits interest in the entity;

5 (3) "eligible employer" means an employer
6 that:

7 (a) made more than fifty percent of
8 its sales to persons outside New Mexico during the most
9 recent twelve months of the employer's modified combined tax
10 liability reporting periods ending prior to claiming a high-
11 wage jobs tax credit; or

12 (b) is eligible for development
13 training program assistance pursuant to Section 21-19-7 NMSA
14 1978;

15 (4) "modified combined tax liability" means
16 the total liability for the reporting period for the gross
17 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
18 any tax collected at the same time and in the same manner as
19 the gross receipts tax, such as the compensating tax, the
20 withholding tax, the interstate telecommunications gross
21 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
22 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
23 minus the amount of any credit other than the high-wage jobs
24 tax credit applied against any or all of these taxes or
25 surcharges; but "modified combined tax liability" excludes

.189003.1

underscoring material = new
[bracketed material] = delete

1 all amounts collected with respect to local option gross
2 receipts taxes;

3 (5) "new high-wage economic-based job" means
4 a job created by an eligible employer on or after July 1,
5 2004 and prior to July 1, 2015 that is occupied for at least
6 forty-eight weeks of a qualifying period by an eligible
7 employee who is paid wages calculated for the qualifying
8 period to be at least:

9 (a) forty thousand dollars (\$40,000)
10 if the job is performed or based in a municipality with a
11 population of forty thousand or more according to the most
12 recent federal decennial census; and

13 (b) twenty-eight thousand dollars
14 (\$28,000) if the job is performed or based in a municipality
15 with a population of less than forty thousand according to
16 the most recent federal decennial census or in the
17 unincorporated area of a county;

18 (6) "qualifying period" means the period of
19 twelve months beginning on the day an eligible employee
20 begins working in a new high-wage economic-based job or the
21 period of twelve months beginning on the anniversary of the
22 day an eligible employee began working in a new high-wage
23 economic-based job; and

24 (7) "wages" means wages as defined in
25 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

.189003.1

underscored material = new
[bracketed material] = delete

1 SECTION 32. A new section of Chapter 7, Article 9G NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] TAX CREDIT--TAXPAYER REPORTING
4 REQUIREMENTS.--A taxpayer allowed a credit by the taxation
5 and revenue department pursuant to Section 7-9G-1 or 7-9G-2
6 NMSA 1978 shall report to the department by August 31
7 following each state fiscal year in which the credit is
8 claimed by the taxpayer. The report shall be on a form
9 developed by the department to obtain information necessary
10 to analyze the effectiveness of the credit, determine if the
11 credit is being used for the purpose for which it was created
12 and assess whether the credit is cost-effective."

13 SECTION 33. Section 7-9H-6 NMSA 1978 (being Laws 2005,
14 Chapter 104, Section 16) is amended to read:

15 "7-9H-6. ADMINISTRATION OF THE ACT--REPORTING.--

16 A. The department shall administer the Research
17 and Development Small Business Tax Credit Act pursuant to the
18 Tax Administration Act.

19 B. A taxpayer allowed a research and development
20 small business tax credit by the department pursuant to the
21 Research and Development Small Business Tax Credit Act shall
22 report to the department by August 31 following each state
23 fiscal year in which the credit is claimed by the taxpayer.
24 The report shall be on a form developed by the department to
25 obtain information necessary to analyze the effectiveness of

underscored material = new
[bracketed material] = delete

1 the credit, determine if the credit is being used for the
2 purpose for which it was created and assess whether the
3 credit is cost-effective.

4 C. Beginning in 2014 and at six-year intervals
5 following 2014, the department shall present a report that
6 analyzes the credits provided pursuant to the Research and
7 Development Small Business Tax Credit Act to the revenue
8 stabilization and tax policy committee for the purpose of
9 facilitating the review by that committee of those credits.
10 The revenue stabilization and tax policy committee, with the
11 aid of the department and the economic development
12 department, shall determine if a need remains for the
13 credits, if the credits are effectively being used for the
14 purpose for which they were created and if the use of the
15 credits is cost-effective. The credits may be proposed for
16 repeal or amendment if they are found by the committee to be
17 ineffective, more costly than is warranted by the purpose for
18 which the credits were proposed or unused or otherwise no
19 longer needed."