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HOUSE BILL 304

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO UTILITIES; INCREASING THE AMOUNT OF ELECTRICITY THAT MAY BE PRODUCED BY QUALIFIED ENERGY GENERATORS THAT WILL BE ELIGIBLE FOR THE RENEWABLE ENERGY PRODUCTION TAX CREDIT; EXTENDING THE DATE THAT A QUALIFIED ENERGY GENERATOR MUST FIRST PRODUCE ELECTRICITY TO QUALIFY FOR THE RENEWABLE ENERGY PRODUCTION TAX CREDIT; CLARIFYING THE PERIOD FOR WHICH A TAXPAYER MAY CLAIM THE RENEWABLE ENERGY PRODUCTION TAX CREDIT.

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

**SECTION 1.** Section 7-2-18.18 NMSA 1978 (being Laws 2007, Chapter 204, Section 2) is amended to read:

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

A. The tax credit provided in this section may be referred to as the "renewable energy production tax credit".  
The tax credit provided in this section may not be claimed with

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1 respect to the same electricity production for which a tax  
2 credit pursuant to Section 7-2A-19 NMSA 1978 has been claimed.

3 B. A taxpayer who files an individual New Mexico  
4 income tax return and who is not a dependent of another  
5 taxpayer is eligible for the renewable energy production tax  
6 credit if the taxpayer:

7 (1) holds title to a qualified energy  
8 generator that first produced electricity on or before January  
9 1, [~~2018~~] 2020; or

10 (2) leases property upon which a qualified  
11 energy generator operates from a county or municipality under  
12 authority of an industrial revenue bond and if the qualified  
13 energy generator first produced electricity on or before  
14 January 1, [~~2018~~] 2020.

15 C. The amount of the tax credit shall equal one  
16 cent (\$.01) per kilowatt-hour of the first four hundred  
17 thousand megawatt-hours of electricity produced by the  
18 qualified energy generator in the taxable year using a wind- or  
19 biomass-derived qualified energy resource, provided that the  
20 total amount of tax credits claimed by all taxpayers for a  
21 single qualified energy generator in a taxable year using a  
22 wind- or biomass-derived qualified energy resource shall not  
23 exceed one cent (\$.01) per kilowatt-hour of the first four  
24 hundred thousand megawatt-hours of electricity produced by the  
25 qualified energy generator.

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

12                   (1) one and one-half cents (\$.015) per  
13 kilowatt-hour in the first taxable year in which the qualified  
14 energy generator is certified eligible pursuant to Subsection G  
15 of this section and produces electricity using a solar-light-  
16 derived or solar-heat-derived qualified energy resource;

17                   (2) two cents (\$.02) per kilowatt-hour in the  
18 second taxable year in which the qualified energy generator is  
19 certified eligible pursuant to Subsection G of this section and  
20 produces electricity using a solar-light-derived or solar-heat-  
21 derived qualified energy resource;

22                   (3) two and one-half cents (\$.025) per  
23 kilowatt-hour in the third taxable year in which the qualified  
24 energy generator is certified eligible pursuant to Subsection G  
25 of this section and produces electricity using a solar-light-

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

2 (4) three cents (\$.03) per kilowatt-hour in the  
3 fourth taxable year in which the qualified energy generator is  
4 certified eligible pursuant to Subsection G of this section and  
5 produces electricity using a solar-light-derived or solar-heat-  
6 derived qualified energy resource;

7 (5) three and one-half cents (\$.035) per  
8 kilowatt-hour in the fifth taxable year in which the qualified  
9 energy generator is certified eligible pursuant to Subsection G  
10 of this section and produces electricity using a solar-light-  
11 derived or solar-heat-derived qualified energy resource;

12 (6) four cents (\$.04) per kilowatt-hour in the  
13 sixth taxable year in which the qualified energy generator is  
14 certified eligible pursuant to Subsection G of this section and  
15 produces electricity using a solar-light-derived or solar-heat-  
16 derived qualified energy resource;

17 (7) three and one-half cents (\$.035) per  
18 kilowatt-hour in the seventh taxable year in which the qualified  
19 energy generator is certified eligible pursuant to Subsection G  
20 of this section and produces electricity using a solar-light-  
21 derived or solar-heat-derived qualified energy resource;

22 (8) three cents (\$.03) per kilowatt-hour in the  
23 eighth taxable year in which the qualified energy generator is  
24 certified eligible pursuant to Subsection G of this section and  
25 produces electricity using a solar-light-derived or solar-heat-

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1 derived qualified energy resource;

2 (9) two and one-half cents (\$.025) per  
3 kilowatt-hour in the ninth taxable year in which the qualified  
4 energy generator is certified eligible pursuant to Subsection G  
5 of this section and produces electricity using a solar-light-  
6 derived or solar-heat-derived qualified energy resource; and

7 (10) two cents (\$.02) per kilowatt-hour in the  
8 tenth taxable year in which the qualified energy generator is  
9 certified eligible pursuant to Subsection G of this section and  
10 produces electricity using a solar-light-derived or solar-heat-  
11 derived qualified energy resource.

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

18 F. As used in this section:

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

21 (a) forest-related materials, including  
22 mill residues, logging residues, forest thinnings, slash, brush,  
23 low-commercial-value materials or undesirable species, salt  
24 cedar and other phreatophyte or woody vegetation removed from  
25 river basins or watersheds and woody material harvested for the

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1 purpose of forest fire fuel reduction or forest health and  
2 watershed improvement;

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

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

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

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

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

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

23 (2) "qualified energy generator" means a  
24 facility with at least one megawatt generating capacity located  
25 in New Mexico that produces electricity using a qualified energy

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1 resource and that sells that electricity to an unrelated person;  
2 and

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

- 9 (a) solar light;
- 10 (b) solar heat;
- 11 (c) wind; or
- 12 (d) biomass.

13 G. A person that holds title to a facility  
14 generating electricity from a qualified energy resource or a  
15 person that leases such a facility from a county or municipality  
16 pursuant to an industrial revenue bond may request certification  
17 of eligibility for the renewable energy production tax credit  
18 from the energy, minerals and natural resources department,  
19 which shall determine if the facility is a qualified energy  
20 generator. The energy, minerals and natural resources  
21 department may certify the eligibility of an energy generator  
22 only if the total amount of electricity that may be produced  
23 annually by all qualified energy generators that are certified  
24 pursuant to this section and pursuant to Section 7-2A-19 NMSA  
25 1978 will not exceed a total of [~~two~~] four million megawatt-

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

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

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

4                   (2) the business entity:

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

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

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

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

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

25                   (5) the energy, minerals and natural resources

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1 department certifies the allocation in writing to the taxpayer.

2 I. Upon receipt of notice of an allocation of the  
3 right to claim all or a portion of the renewable energy  
4 production tax credit, the energy, minerals and natural  
5 resources department shall promptly certify the allocation in  
6 writing to the recipient of the allocation.

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

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

20 L. If the requirements of this section have been  
21 complied with, the department shall approve the renewable energy  
22 production tax credit. The credit may be deducted from a  
23 taxpayer's New Mexico income tax liability for the taxable year  
24 for which the credit is claimed. If the amount of tax credit  
25 exceeds the taxpayer's income tax liability for the taxable

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1 year:

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

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

8 M. Once a taxpayer has been granted a renewable  
9 energy production tax credit for a given facility, that taxpayer  
10 shall be allowed to retain the facility's original date of  
11 [~~application for~~] certification of eligibility to receive tax  
12 credits [for that facility] pursuant to Subsection G of this  
13 section until either the facility goes out of production for  
14 more than six consecutive months in a year or until the  
15 facility's ten-year eligibility has expired."

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

18 "7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--  
19 LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

20 A. The tax credit provided in this section may be  
21 referred to as the "renewable energy production tax credit". The  
22 tax credit provided in this section may not be claimed with  
23 respect to the same electricity production for which the  
24 renewable energy production tax credit provided in the Income  
25 Tax Act has been claimed.

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1           B. A person is eligible for the renewable energy  
2 production tax credit if the person:

3                   (1) holds title to a qualified energy generator  
4 that first produced electricity on or before January 1, [~~2018~~]  
5 2020; or

6                   (2) leases property upon which a qualified  
7 energy generator operates from a county or municipality under  
8 authority of an industrial revenue bond and if the qualified  
9 energy generator first produced electricity on or before January  
10 1, [~~2018~~] 2020.

11           C. The amount of the tax credit shall equal one cent  
12 (\$.01) per kilowatt-hour of the first four hundred thousand  
13 megawatt-hours of electricity produced by the qualified energy  
14 generator in the taxable year using a wind- or biomass-derived  
15 qualified energy resource, provided that the total amount of tax  
16 credits claimed by all taxpayers for a single qualified energy  
17 generator in a taxable year using a wind- or biomass-derived  
18 qualified energy resource shall not exceed one cent (\$.01) per  
19 kilowatt-hour of the first four hundred thousand megawatt-hours  
20 of electricity produced by the qualified energy generator.

21           D. The amount of the tax credit for electricity  
22 produced by a qualified energy generator in the taxable year  
23 using a solar-light-derived or solar-heat-derived qualified  
24 energy resource shall be at the amounts specified in Paragraphs  
25 (1) through (10) of this subsection; provided that the total

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1 amount of tax credits claimed for a taxable year by all  
2 taxpayers for a single qualified energy generator using a solar-  
3 light-derived or solar-heat-derived qualified energy resource  
4 shall be limited to the first two hundred thousand megawatt-  
5 hours of electricity produced by the qualified energy generator  
6 in the taxable year:

7 (1) one and one-half cents (\$.015) per  
8 kilowatt-hour in the first taxable year in which the qualified  
9 energy generator is certified eligible pursuant to Subsection G  
10 of this section and produces electricity using a solar-light-  
11 derived or solar-heat-derived qualified energy resource;

12 (2) two cents (\$.02) per kilowatt-hour in the  
13 second taxable year in which the qualified energy generator is  
14 certified eligible pursuant to Subsection G of this section and  
15 produces electricity using a solar-light-derived or solar-heat-  
16 derived qualified energy resource;

17 (3) two and one-half cents (\$.025) per  
18 kilowatt-hour in the third taxable year in which the qualified  
19 energy generator is certified eligible pursuant to Subsection G  
20 of this section and produces electricity using a solar-light-  
21 derived or solar-heat-derived qualified energy resource;

22 (4) three cents (\$.03) per kilowatt-hour in the  
23 fourth taxable year in which the qualified energy generator is  
24 certified eligible pursuant to Subsection G of this section and  
25 produces electricity using a solar-light-derived or solar-heat-

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1 derived qualified energy resource;

2 (5) three and one-half cents (\$.035) per  
3 kilowatt-hour in the fifth taxable year in which the qualified  
4 energy generator is certified eligible pursuant to Subsection G  
5 of this section and produces electricity using a solar-light-  
6 derived or solar-heat-derived qualified energy resource;

7 (6) four cents (\$.04) per kilowatt-hour in the  
8 sixth taxable year in which the qualified energy generator is  
9 certified eligible pursuant to Subsection G of this section and  
10 produces electricity using a solar-light-derived or solar-heat-  
11 derived qualified energy resource;

12 (7) three and one-half cents (\$.035) per  
13 kilowatt-hour in the seventh taxable year in which the qualified  
14 energy generator is certified eligible pursuant to Subsection G  
15 of this section and produces electricity using a solar-light-  
16 derived or solar-heat-derived qualified energy resource;

17 (8) three cents (\$.03) per kilowatt-hour in the  
18 eighth taxable year in which the qualified energy generator is  
19 certified eligible pursuant to Subsection G of this section and  
20 produces electricity using a solar-light-derived or solar-heat-  
21 derived qualified energy resource;

22 (9) two and one-half cents (\$.025) per  
23 kilowatt-hour in the ninth taxable year in which the qualified  
24 energy generator is certified eligible pursuant to Subsection G  
25 of this section and produces electricity using a solar-light-

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

2 (10) two cents (\$.02) per kilowatt-hour in the  
3 tenth taxable year in which the qualified energy generator is  
4 certified eligible pursuant to Subsection G of this section and  
5 produces electricity using a solar-light-derived or solar-heat-  
6 derived qualified energy resource.

7 E. A taxpayer eligible for a renewable energy  
8 production tax credit pursuant to Subsection B of this section  
9 shall be eligible for the renewable energy production tax credit  
10 for ten consecutive years, beginning on the date the qualified  
11 energy generator [~~begins producing electricity~~] is certified  
12 eligible pursuant to Subsection G of this section.

13 F. As used in this section:

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

16 (a) forest-related materials, including  
17 mill residues, logging residues, forest thinnings, slash, brush,  
18 low-commercial value materials or undesirable species, salt  
19 cedar and other phreatophyte or woody vegetation removed from  
20 river basins or watersheds and woody material harvested for the  
21 purpose of forest fire fuel reduction or forest health and  
22 watershed improvement;

23 (b) agricultural-related materials,  
24 including orchard trees, vineyard, grain or crop residues,  
25 including straws and stover, aquatic plants and agricultural

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1 processed co-products and waste products, including fats, oils,  
2 greases, whey and lactose;

3 (c) animal waste, including manure and  
4 slaughterhouse and other processing waste;

5 (d) solid woody waste materials,  
6 including landscape or right-of-way tree trimmings, rangeland  
7 maintenance residues, waste pallets, crates and manufacturing,  
8 construction and demolition wood wastes, excluding pressure-  
9 treated, chemically treated or painted wood wastes and wood  
10 contaminated with plastic;

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

13 (f) landfill gas, wastewater treatment  
14 gas and biosolids, including organic waste byproducts generated  
15 during the wastewater treatment process; and

16 (g) segregated municipal solid waste,  
17 excluding tires and medical and hazardous waste;

18 (2) "qualified energy generator" means a  
19 facility with at least one megawatt generating capacity located  
20 in New Mexico that produces electricity using a qualified energy  
21 resource and that sells that electricity to an unrelated person;  
22 and

23 (3) "qualified energy resource" means a  
24 resource that generates electrical energy by means of a  
25 fluidized bed technology or similar low-emissions technology or

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1 a zero-emissions generation technology that has substantial  
2 long-term production potential and that uses only the following  
3 energy sources:

- 4 (a) solar light;
- 5 (b) solar heat;
- 6 (c) wind; or
- 7 (d) biomass.

8 G. A person that holds title to a facility  
9 generating electricity from a qualified energy resource or a  
10 person that leases such a facility from a county or municipality  
11 pursuant to an industrial revenue bond may request certification  
12 of eligibility for the renewable energy production tax credit  
13 from the energy, minerals and natural resources department,  
14 which shall determine if the facility is a qualified energy  
15 generator. The energy, minerals and natural resources  
16 department may certify the eligibility of an energy generator  
17 only if the total amount of electricity that may be produced  
18 annually by all qualified energy generators that are certified  
19 pursuant to this section and pursuant to the Income Tax Act will  
20 not exceed a total of ~~[two]~~ four million megawatt-hours plus an  
21 additional five hundred thousand megawatt-hours produced by  
22 qualified energy generators using a solar-light-derived or  
23 solar-heat-derived qualified energy resource. Applications  
24 shall be considered in the order received. The energy, minerals  
25 and natural resources department may estimate the annual

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1 power-generating potential of a generating facility for the  
2 purposes of this section. The energy, minerals and natural  
3 resources department shall issue a certificate to the applicant  
4 stating whether the facility is an eligible qualified energy  
5 generator and the estimated annual production potential of the  
6 generating facility, which shall be the limit of that facility's  
7 energy production eligible for the tax credit for the taxable  
8 year. The energy, minerals and natural resources department may  
9 issue rules governing the procedure for administering the  
10 provisions of this subsection and shall report annually to the  
11 appropriate interim legislative committee information that will  
12 allow the legislative committee to analyze the effectiveness of  
13 the renewable energy production tax credit, including the  
14 identity of qualified energy generators, the energy production  
15 means used, the amount of energy produced by those qualified  
16 energy generators and whether any applications could not be  
17 approved due to program limits.

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

21 (1) the taxpayer owns an interest in a business  
22 entity that is taxed for federal income tax purposes as a  
23 partnership;

24 (2) the business entity:

25 (a) would qualify for the renewable

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1 energy production tax credit pursuant to Paragraph (1) or (2) of  
2 Subsection B of this section;

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

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

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

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

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

22 I. Upon receipt of notice of an allocation of the  
23 right to claim all or a portion of the renewable energy  
24 production tax credit, the energy, minerals and natural  
25 resources department shall promptly certify the allocation in

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1 writing to the recipient of the allocation.

2 J. A taxpayer may claim the renewable energy  
3 production tax credit by submitting to the taxation and revenue  
4 department the certificate issued by the energy, minerals and  
5 natural resources department, pursuant to Subsection G or H of  
6 this section, documentation showing the taxpayer's interest in  
7 the facility, documentation of the amount of electricity  
8 produced by the facility in the taxable year and any other  
9 information the taxation and revenue department may require to  
10 determine the amount of the tax credit due the taxpayer.

11 K. If the requirements of this section have been  
12 complied with, the department shall approve the renewable energy  
13 production tax credit. The credit may be deducted from a  
14 taxpayer's New Mexico corporate income tax liability for the  
15 taxable year for which the credit is claimed. If the amount of  
16 tax credit exceeds the taxpayer's corporate income tax liability  
17 for the taxable year:

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

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

24 L. Once a taxpayer has been granted a renewable  
25 energy production tax credit for a given facility, that taxpayer

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1 shall be allowed to retain the facility's original date of  
2 ~~[application for]~~ certification of eligibility to receive tax  
3 credits ~~[for that facility]~~ pursuant to Subsection G of this  
4 section until either the facility goes out of production for  
5 more than six consecutive months in a year or until the  
6 facility's ten-year eligibility has expired."

7 SECTION 3. APPLICABILITY.--The provisions of this act  
8 apply to taxable years beginning on or after January 1, 2014.

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