

1 SENATE BILL 499

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 William E. Sharer

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10 AN ACT

11 RELATING TO TAXATION; CREATING THE CLIMATE CHANGE COMPLIANCE  
12 INCOME TAX CREDIT AND THE CLIMATE CHANGE COMPLIANCE CORPORATE  
13 INCOME TAX CREDIT.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "[NEW MATERIAL] CLIMATE CHANGE COMPLIANCE INCOME TAX  
19 CREDIT.--

20 A. A taxpayer who is not a dependent of another  
21 individual and who is subject to the Severance Tax Act, Oil and  
22 Gas Severance Tax Act, Oil and Gas Conservation Tax Act, Oil  
23 and Gas Emergency School Tax Act, Natural Gas Processors Tax  
24 Act or Oil and Gas Ad Valorem Production Tax Act may apply for,  
25 and the department may allow, a credit against the taxpayer's

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1 tax liability imposed pursuant to the Income Tax Act. The tax  
2 credit provided by this section may be referred to as the  
3 "climate change compliance income tax credit".

4 B. The climate change compliance income tax credit  
5 shall be in an amount equal to the costs to the taxpayer of  
6 complying with executive order 2019-003.

7 C. A taxpayer may claim a climate change compliance  
8 income tax credit for the taxable year in which the taxpayer  
9 incurred costs to comply with executive order 2019-003. To  
10 receive a climate change compliance income tax credit, a  
11 taxpayer shall apply to the department on forms and in the  
12 manner prescribed by the department. The application shall  
13 include a certification made pursuant to Subsection F of this  
14 section.

15 D. That portion of a climate change compliance  
16 income tax credit that exceeds a taxpayer's tax liability in  
17 the taxable year in which the credit is claimed may be carried  
18 forward for a maximum of ten consecutive taxable years.

19 E. A taxpayer may be allocated the right to claim a  
20 climate change compliance income tax credit in proportion to  
21 the taxpayer's ownership interest if the taxpayer owns an  
22 interest in a business entity that is taxed for federal income  
23 tax purposes as a partnership or limited liability company and  
24 that business entity has met all of the requirements to be  
25 eligible for the credit.

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1 F. The taxation and revenue department and the  
2 energy, minerals and natural resources department shall adopt  
3 rules establishing procedures to provide certification of costs  
4 incurred by the taxpayer for complying with executive order  
5 2019-003 for purposes of obtaining a climate change compliance  
6 income tax credit.

7 G. A taxpayer allowed a tax credit pursuant to this  
8 section shall report the amount of the credit to the department  
9 in a manner required by the department.

10 H. The department shall compile an annual report on  
11 the climate change compliance income tax credit that shall  
12 include the number of taxpayers approved by the department to  
13 receive the credit, the aggregate amount of credits approved  
14 and any other information necessary to evaluate the  
15 effectiveness of the credit. The department shall present the  
16 report to the revenue stabilization and tax policy committee  
17 and the legislative finance committee with an analysis of the  
18 effectiveness and cost of the tax credit.

19 I. As used in this section, "executive order 2019-  
20 003" means executive order 2019-003 issued by the governor of  
21 the state of New Mexico on January 29, 2019, addressing climate  
22 change and energy waste prevention."

23 SECTION 2. A new section of the Corporate Income and  
24 Franchise Tax Act is enacted to read:

25 "[NEW MATERIAL] CLIMATE CHANGE COMPLIANCE CORPORATE INCOME

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1 TAX CREDIT.--

2 A. A taxpayer that files a New Mexico corporate  
3 income tax return and is subject to the Severance Tax Act, Oil  
4 and Gas Severance Tax Act, Oil and Gas Conservation Tax Act,  
5 Oil and Gas Emergency School Tax Act, Natural Gas Processors  
6 Tax Act or Oil and Gas Ad Valorem Production Tax Act may apply  
7 for, and the department may allow, a credit against the  
8 taxpayer's tax liability imposed pursuant to the Corporate  
9 Income and Franchise Tax Act. The tax credit provided by this  
10 section may be referred to as the "climate change compliance  
11 corporate income tax credit".

12 B. The climate change compliance corporate income  
13 tax credit shall be in an amount equal to the costs to the  
14 taxpayer of complying with executive order 2019-003.

15 C. A taxpayer may claim a climate change compliance  
16 corporate income tax credit for the taxable year in which the  
17 taxpayer incurred costs to comply with executive order 2019-  
18 003. To receive a climate change compliance corporate income  
19 tax credit, a taxpayer shall apply to the department on forms  
20 and in the manner prescribed by the department. The  
21 application shall include a certification made pursuant to  
22 Subsection E of this section.

23 D. That portion of a climate change compliance  
24 corporate income tax credit that exceeds a taxpayer's tax  
25 liability in the taxable year in which the credit is claimed

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1 may be carried forward for a maximum of ten consecutive taxable  
2 years.

3 E. The taxation and revenue department and the  
4 energy, minerals and natural resources department shall adopt  
5 rules establishing procedures to provide certification of costs  
6 incurred by the taxpayer for complying with executive order  
7 2019-003 for purposes of obtaining a climate change compliance  
8 corporate income tax credit.

9 F. A taxpayer allowed a tax credit pursuant to this  
10 section shall report the amount of the credit to the department  
11 in a manner required by the department.

12 G. The department shall compile an annual report on  
13 the climate change compliance corporate income tax credit that  
14 shall include the number of taxpayers approved by the  
15 department to receive the credit, the aggregate amount of  
16 credits approved and any other information necessary to  
17 evaluate the effectiveness of the credit. The department shall  
18 present the report to the revenue stabilization and tax policy  
19 committee and the legislative finance committee with an  
20 analysis of the effectiveness and cost of the tax credit.

21 H. As used in this section, "executive order 2019-  
22 003" means executive order 2019-003 issued by the governor of  
23 the state of New Mexico on January 29, 2019, addressing climate  
24 change and energy waste prevention."

25 **SECTION 3. APPLICABILITY.--**The provisions of this act

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apply to taxable years beginning on or after January 1, 2019.

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