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HOUSE BILL 166

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Edward C. Sandoval

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

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

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

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

(1) to encourage the restoration, rehabilitation and preservation of cultural properties, a taxpayer who files an individual New Mexico income tax return and who is not a dependent of another individual and who is the owner of a cultural property listed on the official New Mexico

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1 register of cultural properties, with the taxpayer's consent,
2 may claim a credit not to exceed a maximum aggregate of twenty-
3 five thousand dollars (\$25,000) in an amount equal to one-half
4 of the cost of restoration, rehabilitation or preservation of a
5 cultural property listed on the official New Mexico register;
6 or

7 (2) if a cultural property, whose owner may
8 otherwise claim the credit set forth in Paragraph (1) of this
9 subsection is also located within an arts and cultural district
10 certified by the state or a municipality pursuant to the Arts
11 and Cultural District Act, the owner of that cultural property
12 may claim a credit not to exceed fifty thousand dollars
13 (\$50,000), including any credit claimed pursuant to Paragraph
14 (1) of this subsection, in an amount equal to one-half of the
15 cost of restoration, rehabilitation or preservation of the
16 cultural property.

17 B. The taxpayer may claim the credit if:

18 (1) the taxpayer submitted a plan and
19 specifications for restoration, rehabilitation or preservation
20 to the committee and received approval from the committee for
21 the plan and specifications prior to commencement of the
22 restoration, rehabilitation or preservation;

23 (2) the taxpayer received certification from
24 the committee after completing the restoration, rehabilitation
25 or preservation, or committee-approved phase, that it conformed

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1 to the plan and specifications and preserved and maintained
2 those qualities of the property that made it eligible for
3 inclusion in the official register; and

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

7 C. A taxpayer may claim the credit provided in this
8 section for each taxable year in which restoration,
9 rehabilitation or preservation is carried out. Except as
10 provided in Subsection F of this section, claims for the credit
11 provided in this section shall be limited to three consecutive
12 years, and the maximum aggregate credit allowable shall not
13 exceed twenty-five thousand dollars (\$25,000) if governed by
14 Paragraph (1) of Subsection A of this section, or fifty
15 thousand dollars (\$50,000) if governed by Paragraph (2) of
16 Subsection A of this section, for any single restoration,
17 rehabilitation or preservation project for any cultural
18 property listed on the official New Mexico register certified
19 by the committee.

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

24 E. A taxpayer who otherwise qualifies and claims a
25 credit on a restoration, rehabilitation or preservation project

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1 on property owned by a partnership of which the taxpayer is a
2 member may claim a credit only in proportion to the taxpayer's
3 interest in the partnership. The total credit claimed by all
4 members of the partnership shall not exceed twenty-five
5 thousand dollars (\$25,000) in the aggregate if governed by
6 Paragraph (1) of Subsection A of this section, or fifty
7 thousand dollars (\$50,000) in the aggregate if governed by
8 Paragraph (2) of Subsection A of this section, for any single
9 restoration, rehabilitation or preservation project for any
10 cultural property listed on the official New Mexico register
11 certified by the committee.

12 F. The credit provided in this section may only be
13 deducted from the taxpayer's income tax liability. Any portion
14 of the maximum tax credit provided by this section that remains
15 unused at the end of the taxpayer's taxable year may be carried
16 forward for four consecutive years; provided, however, the
17 total tax credits claimed under this section shall not exceed
18 twenty-five thousand dollars (\$25,000) if governed by Paragraph
19 (1) of Subsection A of this section, or fifty thousand dollars
20 (\$50,000) if governed by Paragraph (2) of Subsection A of this
21 section, for any single restoration, preservation or
22 rehabilitation project for any cultural property listed on the
23 official New Mexico register.

24 G. The historic preservation division shall
25 promulgate regulations for the implementation of Subsection B

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1 of this section.

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

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

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

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

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

23 "7-2-18.10. TAX CREDIT--CERTAIN CONVEYANCES OF REAL
24 PROPERTY.--

25 A. There shall be allowed as a credit against the

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1 tax liability imposed by the Income Tax Act, an amount equal to
2 fifty percent of the fair market value of land or interest in
3 land that is conveyed for the purpose of open space, natural
4 resource or biodiversity conservation, agricultural
5 preservation or watershed or historic preservation as an
6 unconditional donation in perpetuity by the landowner or
7 taxpayer to a public or private conservation agency eligible to
8 hold the land and interests therein for conservation or
9 preservation purposes. The fair market value of qualified
10 donations made pursuant to this section shall be substantiated
11 by a "qualified appraisal" prepared by a "qualified appraiser",
12 as those terms are defined under applicable federal laws and
13 regulations governing charitable contributions.

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

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

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

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

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

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

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

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1 section.

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

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

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

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

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

22 (1) "qualified intermediary" does not include
23 a person who has been previously convicted of a felony, who has
24 had a professional license revoked, who is engaged in the
25 practice defined in Section 61-28B-3 NMSA 1978 and who is

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1 identified in Section 61-29-2 NMSA 1978, and does not include
2 any entity owned wholly or in part or employing any of the
3 foregoing persons; and

4 (2) "taxpayer" means a citizen or resident of
5 the United States, a domestic partnership, a limited liability
6 company, a domestic corporation, an estate, including a foreign
7 estate, or a trust."

8 SECTION 3. Section 7-2-18.11 NMSA 1978 (being Laws 2003,
9 Chapter 400, Section 1) is amended to read:

10 "7-2-18.11. JOB MENTORSHIP TAX CREDIT.--

11 A. To encourage New Mexico businesses to hire youth
12 participating in career preparation education programs, a
13 taxpayer who files an individual New Mexico income tax return,
14 who is not a dependent of another individual and who is an
15 owner of a New Mexico business may claim a credit in an amount
16 equal to fifty percent of gross wages paid to qualified
17 students who are employed by the business during the taxable
18 year for which the return is filed. The tax credit provided by
19 this section may be referred to as the "job mentorship tax
20 credit".

21 B. A taxpayer who is an owner of a New Mexico
22 business may claim the job mentorship tax credit for each
23 taxable year in which the business employs one or more
24 qualified students. The maximum aggregate credit allowable
25 shall not exceed fifty percent of the gross wages paid to not

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1 more than ten qualified students employed by the business for
2 up to three hundred twenty hours of employment of each
3 qualified student in each taxable year for a maximum of three
4 taxable years for each qualified student. In no event shall a
5 taxpayer claim a credit in excess of twelve thousand dollars
6 (\$12,000) in any taxable year. The taxpayer shall certify that
7 hiring the qualified student does not displace or replace a
8 current employee.

9 C. The department shall issue job mentorship tax
10 credit certificates upon request to any accredited New Mexico
11 secondary school that has a school-sanctioned career
12 preparation education program. The maximum number of
13 certificates that may be issued in a school year to any one
14 school is equal to the number of qualified students in the
15 school-sanctioned career preparation education program on
16 October 15 of that school year, as certified by the school
17 principal.

18 D. A job mentorship tax credit certificate may be
19 executed by a school principal with respect to a qualified
20 student, and the executed certificate may be transferred to a
21 New Mexico business that employs that student. By executing
22 the certificate with respect to a student, the school principal
23 certifies that the school has a school-sanctioned career
24 preparation education program and the student is a qualified
25 student.

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1 E. To claim the job mentorship tax credit, the
2 taxpayer must submit with respect to each employee for whom the
3 credit is claimed:

4 (1) a properly executed job mentorship tax
5 credit certificate;

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

9 (3) information required by the secretary that
10 the employee was not also employed in the same taxable year by
11 another New Mexico business qualifying for and claiming a job
12 mentorship tax credit for that employee pursuant to this
13 section or the Corporate Income and Franchise Tax Act.

14 F. The job mentorship tax credit may only be
15 deducted from the taxpayer's New Mexico income tax liability
16 for the taxable year. Any portion of the maximum credit
17 provided by this section that remains unused at the end of the
18 taxpayer's taxable year may be carried forward for three
19 consecutive taxable years; provided the total credits claimed
20 under this section shall not exceed the maximum allowable
21 pursuant to Subsection B of this section.

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

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1 H. A taxpayer who otherwise qualifies for and
2 claims a job mentorship tax credit for employment of qualified
3 students by a partnership, limited partnership, limited
4 liability company, S corporation or other business association
5 of which the taxpayer is a member may claim a credit only in
6 proportion to ~~[his]~~ the taxpayer's interest in the partnership,
7 limited partnership, limited liability company, S corporation
8 or association. The total credit claimed by all members of the
9 business shall not exceed the maximum credit allowable pursuant
10 to Subsection B of this section.

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

23 ~~[F.]~~ J. As used in this section:

24 (1) "career preparation education program"
25 means a work-based learning or school-to-career program

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1 designed for secondary school students to create academic and
2 career goals and objectives and find employment in a job
3 meeting those goals and objectives;

4 (2) "New Mexico business" means a partnership,
5 limited partnership, limited liability company treated as a
6 partnership for federal income tax purposes, S corporation or
7 sole proprietorship that carries on a trade or business in New
8 Mexico and that employs in New Mexico fewer than three hundred
9 full-time employees at any one time during the taxable year;
10 and

11 (3) "qualified student" means an individual
12 who is at least fourteen years of age but not more than twenty-
13 one years of age who is attending full time an accredited New
14 Mexico secondary school and who is a participant in a career
15 preparation education program sanctioned by the secondary
16 school."

17 SECTION 4. Section 7-2-18.14 NMSA 1978 (being Laws 2006,
18 Chapter 93, Section 1, as amended) is amended to read:

19 "7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
20 RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
21 MARKET DEVELOPMENT TAX CREDIT.--

22 A. Except as provided in Subsection C of this
23 section, a taxpayer who files an individual New Mexico income
24 tax return for a taxable year beginning on or after
25 January 1, 2006 and who purchases and installs after

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1 January 1, 2006 but before December 31, 2016 a solar thermal
2 system or a photovoltaic system in a residence, business or
3 agricultural enterprise in New Mexico owned by that taxpayer
4 may apply for, and the department may allow, a solar market
5 development tax credit of up to ten percent of the purchase
6 and installation costs of the system.

7 B. The total solar market development tax credit
8 allowed for either a photovoltaic system or a solar thermal
9 system shall not exceed nine thousand dollars (\$9,000). The
10 department shall allow solar market development tax credits
11 only for solar thermal systems and photovoltaic systems
12 certified by the energy, minerals and natural resources
13 department.

14 C. Solar market development tax credits may not be
15 claimed or allowed for:

16 (1) a heating system for a swimming pool or
17 a hot tub; or

18 (2) a commercial or industrial photovoltaic
19 system other than an agricultural photovoltaic system on a
20 farm or ranch that is not connected to an electric utility
21 transmission or distribution system.

22 D. The department may allow a maximum annual
23 aggregate of:

24 (1) two million dollars (\$2,000,000) in
25 solar market development tax credits for solar thermal

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1 systems; and

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

4 E. A portion of the solar market development tax
5 credit that remains unused in a taxable year may be carried
6 forward for a maximum of ten consecutive taxable years
7 following the taxable year in which the credit originates
8 until fully expended.

9 F. Prior to July 1, 2006, the energy, minerals and
10 natural resources department shall adopt rules establishing
11 procedures to provide certification of solar thermal systems
12 and photovoltaic systems for purposes of obtaining a solar
13 market development tax credit. The rules shall address
14 technical specifications and requirements relating to safety,
15 code and standards compliance, solar collector orientation and
16 sun exposure, minimum system sizes, system applications and
17 lists of eligible components. The energy, minerals and
18 natural resources department may modify the specifications and
19 requirements as necessary to maintain a high level of system
20 quality and performance.

21 G. Beginning in 2014 and at six-year intervals
22 following 2014, the department shall present a report on the
23 solar market development 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,

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

10 (1) "photovoltaic system" means an energy
11 system that collects or absorbs sunlight for conversion into
12 electricity; and

13 (2) "solar thermal system" means an energy
14 system that collects or absorbs solar energy for conversion
15 into heat for the purposes of space heating, space cooling or
16 water heating."

17 **SECTION 5.** Section 7-2-18.17 NMSA 1978 (being Laws
18 2007, Chapter 172, Section 1) is amended to read:

19 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

20 A. A taxpayer who files a New Mexico income tax
21 return, is not a dependent of another taxpayer, is an
22 accredited investor and makes a qualified investment may claim
23 a credit in an amount not to exceed twenty-five percent of not
24 more than one hundred thousand dollars (\$100,000) of the
25 qualified investment. The tax credit provided in this section

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1 shall be known as the "angel investment credit".

2 B. A taxpayer may claim the angel investment
3 credit for not more than two qualified investments in a
4 taxable year; provided that each investment is in a different
5 qualified business. A taxpayer may claim the angel investment
6 credit for qualified investments made in the same qualified
7 business or successor of that business for not more than three
8 taxable years. The angel investment credit shall not exceed
9 twenty-five thousand dollars (\$25,000) for each qualified
10 investment by the taxpayer.

11 C. A taxpayer may claim the angel investment
12 credit no later than one year following the end of the
13 calendar year in which the qualified investment was made;
14 provided that a claim for the credit may not be made or
15 allowed with respect to any investment made after December 31,
16 2011.

17 D. A taxpayer shall apply for certification of
18 eligibility for the angel investment credit from the economic
19 development department. Applications shall be considered in
20 the order received. If the economic development department
21 determines that the taxpayer is an accredited investor and the
22 investment is a qualified investment, it shall issue a
23 certificate of eligibility to the taxpayer, subject to the
24 limitation in Subsection E of this section. The certificate
25 shall be dated and shall include a calculation of the amount

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1 of the angel investment credit for which the taxpayer is
2 eligible. The economic development department may issue rules
3 governing the procedure for administering the provisions of
4 this subsection.

5 E. The economic development department may issue a
6 certificate of eligibility pursuant to Subsection D of this
7 section only if the total amount of angel investment credits
8 represented by certificates of eligibility issued by the
9 economic development department in any calendar year will not
10 exceed seven hundred fifty thousand dollars (\$750,000). If
11 the applications for certificates of eligibility for angel
12 investment credits represent an aggregate amount exceeding
13 seven hundred fifty thousand dollars (\$750,000) for any
14 calendar year, certificates shall be issued in the order that
15 the applications were received. The excess applications that
16 would have been certified, but for the limit imposed by this
17 subsection, shall be certified, subject to the same limit, in
18 subsequent calendar years.

19 F. The economic development department shall
20 report annually to the legislative finance committee on the
21 utilization and effectiveness of the angel investment credit.
22 The report shall include, at a minimum: the number of
23 accredited investors to whom certificates of eligibility were
24 issued by the department in the previous year; the names of
25 those investors; the amount of angel investment credit for

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1 which each investor was certified eligible; and the number and
2 names of the businesses that the department has determined are
3 qualified businesses for purposes of an investment by an
4 accredited investor. The report shall also include an
5 evaluation of the success of the angel investment credit as an
6 incubator of new businesses in New Mexico and of the continued
7 viability and operation in New Mexico of businesses in which
8 investments eligible for the angel investment credit have been
9 made.

10 G. To claim the angel investment credit, the
11 taxpayer must provide to the taxation and revenue department a
12 certificate of eligibility issued by the economic development
13 department pursuant to Subsection D of this section and any
14 other information the taxation and revenue department may
15 require to determine the amount of the tax credit due the
16 taxpayer. If the requirements of this section have been
17 complied with, the taxation and revenue department shall
18 approve the claim for the credit.

19 H. A taxpayer who otherwise qualifies for and
20 claims a credit pursuant to this section for a qualified
21 investment made by a partnership or other business association
22 of which the taxpayer is a member may claim a credit only in
23 proportion to the taxpayer's interest in the partnership or
24 business association. The total credit claimed in the
25 aggregate by all members of the partnership or business

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1 association in a taxable year with respect to a qualified
2 investment shall not exceed twenty-five thousand dollars
3 (\$25,000).

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

8 J. The angel investment credit may only be
9 deducted from the taxpayer's income tax liability. Any
10 portion of the tax credit provided by this section that
11 remains unused at the end of the taxpayer's taxable year may
12 be carried forward for three consecutive years.

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

25 [~~K-~~] L. As used in this section:

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1 (1) "accredited investor" means a person who
2 is an accredited investor within the meaning of Rule 501
3 issued by the federal securities and exchange commission
4 pursuant to the federal Securities Act of 1933, as amended;

5 (2) "business" means a corporation, general
6 partnership, limited partnership, limited liability company or
7 other similar entity, but excludes an entity that is a
8 government or a nonprofit organization designated as such by
9 the federal government or any state;

10 (3) "equity" means common or preferred stock
11 of a corporation, a partnership interest in a limited
12 partnership or a membership interest in a limited liability
13 company, including debt subject to an option in favor of the
14 creditor to convert the debt into common or preferred stock, a
15 partnership interest or a membership interest;

16 (4) "high-technology research" means
17 research:

18 (a) that is undertaken for the purpose
19 of discovering information that is technological in nature and
20 the application of which is intended to be useful in the
21 development of a new or improved business component of the
22 qualified business; and

23 (b) substantially all of the activities
24 of which constitute elements of a process or experimentation
25 related to a new or improved function, performance,

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1 reliability or quality, but not related to style, taste or
2 cosmetic or seasonal design factors;

3 (5) "manufacturing" means combining or
4 processing components or materials to increase their value for
5 sale in the ordinary course of business, but does not include:

- 6 (a) construction;
- 7 (b) farming;
- 8 (c) processing natural resources,
9 including hydrocarbons; or
- 10 (d) preparing meals for immediate
11 consumption, on- or off-premises;

12 (6) "qualified business" means a business
13 that:

- 14 (a) maintains its principal place of
15 business in New Mexico;
- 16 (b) engages in high-technology research
17 or manufacturing activities in New Mexico;
- 18 (c) is not primarily engaged in or is
19 not primarily organized as any of the following types of
20 businesses: credit or finance services, including banks,
21 savings and loan associations, credit unions, small loan
22 companies or title loan companies; financial brokering or
23 investment; professional services, including accounting, legal
24 services, engineering and any other service the practice of
25 which requires a license; insurance; real estate; construction

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1 or construction contracting; consulting or brokering; mining;
2 wholesale or retail trade; providing utility service,
3 including water, sewerage, electricity, natural gas, propane
4 or butane; publishing, including publishing newspapers or
5 other periodicals; broadcasting; or providing internet
6 operating services;

7 (d) has not issued securities
8 registered pursuant to Section 6 of the federal Securities Act
9 of 1933, as amended; has not issued securities traded on a
10 national securities exchange; is not subject to reporting
11 requirements of the federal Securities Exchange Act of 1934,
12 as amended; and is not registered pursuant to the federal
13 Investment Company Act of 1940, as amended, at the time of the
14 investment;

15 (e) has one hundred or fewer employees
16 calculated on a full-time-equivalent basis at the time of the
17 investment; and

18 (f) has not had gross revenues in
19 excess of five million dollars (\$5,000,000) in any fiscal year
20 ending on or before the date of the investment; and

21 (7) "qualified investment" means a cash
22 investment in a qualified business for equity, but does not
23 include an investment by a taxpayer if the taxpayer, a member
24 of the taxpayer's immediate family or an entity affiliated
25 with the taxpayer receives compensation from the qualified

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1 business in exchange for services provided to the qualified
2 business within one year of investment in the qualified
3 business."

4 SECTION 6. Section 7-2-18.18 NMSA 1978 (being Laws
5 2007, Chapter 204, Section 2) is amended to read:

6 "7-2-18.18. RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

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

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

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

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

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

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

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

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1 (2) two cents (\$.02) per kilowatt-hour in
2 the second 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 (3) two and one-half cents (\$.025) per
6 kilowatt-hour in the third taxable year in which the qualified
7 energy generator produces electricity using a
8 solar-light-derived or solar-heat-derived qualified energy
9 resource;

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

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

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

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

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

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

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

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 million megawatt-hours plus
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1 an additional five hundred thousand megawatt-hours produced by
2 qualified energy generators using a solar-light-derived or
3 solar-heat-derived qualified energy resource. Applications
4 shall be considered in the order received. The energy, minerals
5 and natural resources department may estimate the annual
6 power-generating potential of a generating facility for the
7 purposes of this section. The energy, minerals and natural
8 resources department shall issue a certificate to the applicant
9 stating whether the facility is an eligible qualified energy
10 generator and the estimated annual production potential of the
11 generating facility, which shall be the limit of that facility's
12 energy production eligible for the tax credit for the taxable
13 year. The energy, minerals and natural resources department may
14 issue rules governing the procedure for administering the
15 provisions of this subsection and shall report annually to the
16 appropriate interim legislative committee information that will
17 allow the legislative committee to analyze the effectiveness of
18 the renewable energy production tax credit, including the
19 identity of qualified energy generators, the energy production
20 means used, the amount of energy produced by those qualified
21 energy generators and whether any applications could not be
22 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 who file separate returns for
8 a taxable year in which they could have filed a joint return may
9 each claim only one-half of the credit that would have been
10 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 tax credits for that facility until either the
12 facility goes out of production for more than six consecutive
13 months in a year or until the facility's ten-year eligibility
14 has expired.

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

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1 which the credit was proposed or unused or otherwise no longer
2 needed."

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

5 "7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

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

18 B. A taxpayer who files an income tax return is
19 eligible to be granted a sustainable building tax credit by the
20 department if the taxpayer submits a document issued pursuant to
21 Subsection I of this section with the taxpayer's income tax
22 return.

23 C. The amount of the sustainable building tax credit
24 that may be claimed with respect to a sustainable commercial
25 building shall be calculated based on the certification level

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1 the building has achieved in the LEED green building rating
 2 system and the amount of qualified occupied square footage in
 3 the building, as indicated on the following chart:

4	LEED Rating Level	Qualified	Tax Credit
5		Occupied	per Square
6		Square Footage	Foot
7	LEED-NC Silver	First 10,000	\$3.50
8		Next 40,000	\$1.75
9		Over 50,000	
10		up to 500,000	\$.70
11	LEED-NC Gold	First 10,000	\$4.75
12		Next 40,000	\$2.00
13		Over 50,000	
14		up to 500,000	\$1.00
15	LEED-NC Platinum	First 10,000	\$6.25
16		Next 40,000	\$3.25
17		Over 50,000	
18		up to 500,000	\$2.00
19	LEED-EB or CS Silver	First 10,000	\$2.50
20		Next 40,000	\$1.25
21		Over 50,000	
22		up to 500,000	\$.50
23	LEED-EB or CS Gold	First 10,000	\$3.35
24		Next 40,000	\$1.40
25		Over 50,000	

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

18 D. The amount of the sustainable building tax
19 credit that may be claimed with respect to a sustainable
20 residential building shall be calculated based on the amount
21 of qualified occupied square footage, as indicated on the
22 following chart:

23	Rating System/Level	Qualified	Tax Credit
24		Occupied	per Square
25		Square Footage	Foot

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1	LEED-H Silver or Build	First 2,000	\$5.00
2	Green NM Silver	Next 1,000	\$2.50
3	LEED-H Gold or Build	First 2,000	\$6.85
4	Green NM Gold	Next 1,000	\$3.40
5	LEED-H Platinum or Build	First 2,000	\$9.00
6	Green NM Emerald	Next 1,000	\$4.45
7	EPA ENERGY STAR		
8	Manufactured Housing	Up to 3,000	\$3.00.

9 E. A person that is a building owner may apply
10 for a certificate of eligibility for the sustainable building
11 tax credit from the energy, minerals and natural resources
12 department after the construction, installation or renovation
13 of the sustainable building is complete. Applications shall
14 be considered in the order received. If the energy, minerals
15 and natural resources department determines that the building
16 owner meets the requirements of this subsection and that the
17 building with respect to which the tax credit application is
18 made meets the requirements of this section as a sustainable
19 residential building or a sustainable commercial building,
20 the energy, minerals and natural resources department may
21 issue a certificate of eligibility to the building owner,
22 subject to the limitation in Subsection F of this section.
23 The certificate shall include the rating system certification
24 level awarded to the building, the amount of qualified
25 occupied square footage in the building and a calculation of

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1 the maximum amount of sustainable building tax credit for
2 which the building owner would be eligible. The energy,
3 minerals and natural resources department may issue rules
4 governing the procedure for administering the provisions of
5 this subsection. If the certification level for the
6 sustainable residential building is awarded on or after
7 January 1, 2007, the energy, minerals and natural resources
8 department may issue a certificate of eligibility to a
9 building owner who is:

10 (1) the owner of the sustainable residential
11 building at the time the certification level for the building
12 is awarded; or

13 (2) the subsequent purchaser of a
14 sustainable residential building with respect to which no tax
15 credit has been previously claimed.

16 F. The energy, minerals and natural resources
17 department may issue a certificate of eligibility only if the
18 total amount of sustainable building tax credits represented
19 by certificates of eligibility issued by the energy, minerals
20 and natural resources department pursuant to this section and
21 pursuant to the Corporate Income and Franchise Tax Act shall
22 not exceed in any calendar year an aggregate amount of five
23 million dollars (\$5,000,000) with respect to sustainable
24 commercial buildings and an aggregate amount of five million
25 dollars (\$5,000,000) with respect to sustainable residential

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1 buildings; provided that no more than one million two hundred
2 fifty thousand dollars (\$1,250,000) of the aggregate amount
3 with respect to sustainable residential buildings shall be
4 for manufactured housing. If for any taxable year, the
5 energy, minerals and natural resources department determines
6 that the applications for sustainable building tax credits
7 with respect to sustainable residential buildings for that
8 taxable year exceed the aggregate limit set in this section,
9 the energy, minerals and natural resources department may
10 issue certificates of eligibility under the aggregate annual
11 limit for sustainable commercial buildings to building owners
12 of multifamily dwelling units that meet the requirements of
13 the energy, minerals and natural resources department and of
14 this section; provided that applications for sustainable
15 building credits for other sustainable commercial buildings
16 total less than the full amount allocated for tax credits for
17 sustainable commercial buildings.

18 G. Installation of a solar thermal system or a
19 photovoltaic system eligible for the solar market development
20 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
21 used as a component of qualification for the rating system
22 certification level used in determining eligibility for the
23 sustainable building tax credit, unless a solar market
24 development tax credit pursuant to Section 7-2-18.14 NMSA
25 1978 has not been claimed with respect to that system and the

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1 building owner and the taxpayer claiming the sustainable
2 building tax credit certify that such a tax credit will not
3 be claimed with respect to that system.

4 H. To be eligible for the sustainable building
5 tax credit, the building owner shall provide to the taxation
6 and revenue department a certificate of eligibility issued by
7 the energy, minerals and natural resources department
8 pursuant to the requirements of Subsection E of this section
9 and any other information the taxation and revenue department
10 may require to determine the amount of the tax credit for
11 which the building owner is eligible.

12 I. If the requirements of this section have been
13 complied with, the department shall issue to the building
14 owner a document granting a sustainable building tax credit.
15 The document shall be numbered for identification and declare
16 its date of issuance and the amount of the tax credit allowed
17 pursuant to this section. The document may be submitted by
18 the building owner with that taxpayer's income tax return, if
19 applicable, or may be sold, exchanged or otherwise
20 transferred to another taxpayer. The parties to such a
21 transaction shall notify the department of the sale, exchange
22 or transfer within ten days of the sale, exchange or
23 transfer.

24 J. Except as provided in Subsection K of this
25 section, the sustainable building tax credit represented by

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1 the document issued pursuant to Subsection I of this section
2 shall be applied against the taxpayer's income tax liability
3 for the taxable year for which the credit is approved and the
4 three subsequent taxable years, in increments of twenty-five
5 percent of the total credit amount in each of the four
6 taxable years. If the amount of the credit available in a
7 taxable year exceeds the taxpayer's income tax liability for
8 that taxable year, the excess may be carried forward for up
9 to seven years.

10 K. If the total amount of a sustainable building
11 tax credit approved by the department is less than twenty-
12 five thousand dollars (\$25,000), the entire amount of the
13 credit may be applied against the taxpayer's income tax
14 liability for the taxable year for which the credit is
15 approved. If the amount of the credit exceeds the taxpayer's
16 income tax liability for that taxable year, the excess may be
17 carried forward for up to seven years.

18 L. A taxpayer who otherwise qualifies and claims
19 a sustainable building tax credit with respect to a
20 sustainable building owned by a partnership or other business
21 association of which the taxpayer is a member may claim a
22 credit only in proportion to that taxpayer's interest in the
23 partnership or association. The total credit claimed in the
24 aggregate by all members of the partnership or association
25 with respect to the sustainable building shall not exceed the

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1 amount of the credit that could have been claimed by a sole
2 owner of the property.

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

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

20 [~~N.~~] O. For the purposes of this section:

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

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

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

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

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

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

12 (7) "LEED-H" means the LEED rating system
13 for homes;

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

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

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

22 (11) "manufactured housing" means a
23 multisectioned home that is:

24 (a) a manufactured home or modular
25 home;

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

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

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

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

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

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

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

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

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1 (14) "sustainable building" means either a
2 sustainable commercial building or a sustainable residential
3 building;

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

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

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

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

24 (16) "sustainable residential building"
25 means:

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

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

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

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

22 **SECTION 8.** Section 7-2-18.21 NMSA 1978 (being Laws
23 2007, Chapter 204, Section 7) is amended to read:

24 "7-2-18.21. CREDIT--BLENDED BIODIESEL FUEL.--

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

12 (1) from January 1, 2007 until December 31,
13 2010, at a rate of three cents (\$.03) per gallon;

14 (2) from January 1, 2011 until December 31,
15 2011, at a rate of two cents (\$.02) per gallon; and

16 (3) from January 1, 2012 until December 31,
17 2012, at a rate of one cent (\$.01) per gallon.

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

24 C. A taxpayer who otherwise qualifies for and
25 claims a credit pursuant to this section for blended

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

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

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

24 F. A taxpayer claiming a credit pursuant to this
25 section shall provide documentation of eligibility in form

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1 and content as determined by the department.

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

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

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

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

24 (3) "diesel fuel" means any diesel-engine
25 fuel used for the generation of power to propel a motor

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1 vehicle."

2 SECTION 9. Section 7-2-18.22 NMSA 1978 (being Laws
3 2007, Chapter 361, Section 2) is amended to read:

4 "7-2-18.22. TAX CREDIT--RURAL HEALTH CARE PRACTITIONER
5 TAX CREDIT.--

6 A. A taxpayer who files an individual New Mexico
7 tax return, who is not a dependent of another individual, who
8 is an eligible health care practitioner and who has provided
9 health care services in New Mexico in a rural health care
10 underserved area in a taxable year may claim a credit against
11 the tax liability imposed by the Income Tax Act. The credit
12 provided in this section may be referred to as the "rural
13 health care practitioner tax credit".

14 B. The rural health care practitioner tax credit
15 may be claimed and allowed in an amount that shall not exceed
16 five thousand dollars (\$5,000) for all eligible physicians,
17 osteopathic physicians, dentists, clinical psychologists,
18 podiatrists and optometrists who qualify pursuant to the
19 provisions of this section, except the credit shall not
20 exceed three thousand dollars (\$3,000) for all eligible
21 dental hygienists, physician assistants, certified nurse-
22 midwives, certified registered nurse anesthetists, certified
23 nurse practitioners and clinical nurse specialists.

24 C. To qualify for the rural health care
25 practitioner tax credit, an eligible health care practitioner

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1 shall have provided health care during a taxable year for at
2 least two thousand eighty hours at a practice site located in
3 an approved, rural health care underserved area. An eligible
4 rural health care practitioner who provided health care
5 services for at least one thousand forty hours but less than
6 two thousand eighty hours at a practice site located in an
7 approved rural health care underserved area during a taxable
8 year is eligible for one-half of the credit amount.

9 D. Before an eligible health care practitioner
10 may claim the rural health care practitioner tax credit, the
11 practitioner shall submit an application to the department of
12 health that describes the practitioner's clinical practice
13 and contains additional information that the department of
14 health may require. The department of health shall determine
15 whether an eligible health care practitioner qualifies for
16 the rural health care practitioner tax credit and shall issue
17 a certificate to each qualifying eligible health care
18 practitioner. The department of health shall provide the
19 taxation and revenue department appropriate information for
20 all eligible health care practitioners to whom certificates
21 are issued.

22 E. A taxpayer claiming the credit provided by
23 this section shall submit a copy of the certificate issued by
24 the department of health with the taxpayer's New Mexico
25 income tax return for the taxable year. If the amount of the

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1 credit claimed exceeds a taxpayer's tax liability for the
2 taxable year in which the credit is being claimed, the excess
3 may be carried forward for three consecutive taxable years.

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

16 [~~F.~~] G. As used in this section:

17 (1) "eligible health care practitioner"

18 means:

19 (a) a certified nurse-midwife licensed
20 by the board of nursing as a registered nurse and licensed by
21 the public health division of the department of health to
22 practice nurse-midwifery as a certified nurse-midwife;

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

25 (c) an optometrist licensed pursuant

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1 to the provisions of the Optometry Act;

2 (d) an osteopathic physician licensed
3 pursuant to the provisions of Chapter 61, Article 10 NMSA
4 1978 or an osteopathic physician assistant licensed pursuant
5 to the provisions of the Osteopathic Physicians' Assistants
6 Act;

7 (e) a physician or physician assistant
8 licensed pursuant to the provisions of Chapter 61, Article 6
9 NMSA 1978;

10 (f) a podiatrist licensed pursuant to
11 the provisions of the Podiatry Act;

12 (g) a clinical psychologist licensed
13 pursuant to the provisions of the Professional Psychologist
14 Act; and

15 (h) a registered nurse in advanced
16 practice who has been prepared through additional formal
17 education as provided in Sections 61-3-23.2 through 61-3-23.4
18 NMSA 1978 to function beyond the scope of practice of
19 professional registered nursing, including certified nurse
20 practitioners, certified registered nurse anesthetists and
21 clinical nurse specialists;

22 (2) "health care underserved area" means a
23 geographic area or practice location in which it has been
24 determined by the department of health, through the use of
25 indices and other standards set by the department of health,

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1 that sufficient health care services are not being provided;

2 (3) "practice site" means a private
3 practice, public health clinic, hospital, public or private
4 nonprofit primary care clinic or other health care service
5 location in a health care underserved area; and

6 (4) "rural" means an area or location
7 identified by the department of health as falling outside of
8 an urban area."

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

11 "7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
12 CREDIT.--

13 A. A taxpayer who files an individual New Mexico
14 income tax return for a taxable year beginning on or after
15 January 1, 2010 and who purchases and installs after January
16 1, 2010 but before December 31, 2020 a geothermal ground-
17 coupled heat pump in a residence, business or agricultural
18 enterprise in New Mexico owned by that taxpayer may apply
19 for, and the department may allow, a tax credit of up to
20 thirty percent of the purchase and installation costs of the
21 system. The credit provided in this section may be referred
22 to as the "geothermal ground-coupled heat pump tax credit".
23 The total geothermal ground-coupled heat pump tax credit
24 allowed to a taxpayer shall not exceed nine thousand dollars
25 (\$9,000). The department shall allow a geothermal ground-

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1 coupled heat pump tax credit only for geothermal ground-
2 coupled heat pumps certified by the energy, minerals and
3 natural resources department.

4 B. A portion of the geothermal ground-coupled
5 heat pump tax credit that remains unused in a taxable year
6 may be carried forward for a maximum of ten consecutive
7 taxable years following the taxable year in which the credit
8 originates until the credit is fully expended.

9 C. Prior to July 1, 2010, the energy, minerals
10 and natural resources department shall adopt rules
11 establishing procedures to provide certification of
12 geothermal ground-coupled heat pumps for purposes of
13 obtaining a geothermal ground-coupled heat pump tax credit.
14 The rules shall address technical specifications and
15 requirements relating to safety, building code and standards
16 compliance, minimum system sizes, system applications and
17 lists of eligible components. The energy, minerals and
18 natural resources department may modify the specifications
19 and requirements as necessary to maintain a high level of
20 system quality and performance.

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

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

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

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

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1 the purpose for which the credit was proposed or unused or
2 otherwise no longer needed.

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

11 **SECTION 11.** Section 7-2A-8.6 NMSA 1978 (being Laws
12 1984, Chapter 34, Section 2, as amended) is amended to read:

13 "7-2A-8.6. CREDIT FOR PRESERVATION OF CULTURAL
14 PROPERTY--CORPORATE INCOME TAX CREDIT.--

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

17 (1) to encourage the restoration,
18 rehabilitation and preservation of cultural properties, a
19 taxpayer that files a corporate income tax return and that is
20 the owner of a cultural property listed on the official New
21 Mexico register of cultural properties, with its consent, may
22 claim a credit not to exceed twenty-five thousand dollars
23 (\$25,000) in an amount equal to one-half of the cost of
24 restoration, rehabilitation or preservation of the cultural
25 property; or

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1 (2) if a cultural property, whose owner may
2 otherwise claim the credit set forth in Paragraph (1) of this
3 subsection is also located within an arts and cultural
4 district designated by the state or a municipality pursuant
5 to the Arts and Cultural District Act, the owner of that
6 cultural property may claim a credit not to exceed fifty
7 thousand dollars (\$50,000), including any credit claimed
8 pursuant to Paragraph (1) of this subsection, in an amount
9 equal to one-half of the cost of restoration, rehabilitation
10 or preservation of the cultural property.

11 B. The taxpayer may claim the credit if:

12 (1) it submitted a plan and specifications
13 for restoration, rehabilitation or preservation to the
14 committee and received approval from the committee for the
15 plan and specifications prior to commencement of the
16 restoration, rehabilitation or preservation;

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

23 (3) the project is completed within twenty-
24 four months of the date the project is approved by the
25 committee in accordance with Paragraph (1) of this

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1 subsection.

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

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

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1 for any cultural property listed on the official New Mexico
2 register approved by the committee.

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

16 F. The historic preservation division shall
17 promulgate regulations for the implementation of this
18 section.

19 G. Beginning in 2014 and at six-year intervals
20 following 2014, the department shall present a report on the
21 tax credit provided pursuant to this section to the revenue
22 stabilization and tax policy committee for review. The
23 revenue stabilization and tax policy committee, with the aid
24 of the department and the cultural affairs department, shall
25 determine if a need remains for the credit, if the credit is

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

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

9 (1) "committee" means the cultural
10 properties review committee created in Section 18-6-4 NMSA
11 1978; and

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

15 **SECTION 12.** Section 7-2A-8.9 NMSA 1978 (being Laws
16 2003, Chapter 331, Section 8, as amended) is amended to read:

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

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

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

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

21 C. Qualified donations shall include the
22 conveyance in perpetuity of a fee interest in real property
23 or a less-than-fee interest in real property, such as a
24 conservation restriction, preservation restriction,
25 agricultural preservation restriction or watershed

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

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

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

25 F. A taxpayer may apply for certification of

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

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

25 H. The tax credit represented by a document

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

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

25 J. If a charitable deduction is claimed on the

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

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

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

21 (1) "qualified intermediary" does not
22 include a person who has been previously convicted of a
23 felony, who has had a professional license revoked, who is
24 engaged in the practice defined in Section 61-28B-3 NMSA 1978
25 and who is identified in Section 61-29-2 NMSA 1978, and does

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1 not include any entity owned wholly or in part or employing
2 any of the foregoing persons; and

3 (2) "taxpayer" means a citizen or resident
4 of the United States, a domestic partnership, a limited
5 liability company, a domestic corporation, an estate,
6 including a foreign estate, or a trust."

7 SECTION 13. Section 7-2A-14 NMSA 1978 (being Laws 1983,
8 Chapter 218, Section 1, as amended) is amended to read:

9 "7-2A-14. CORPORATE-SUPPORTED CHILD CARE--CREDITS
10 ALLOWED.--

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

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

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

19 C. Beginning in 2014 and at six-year intervals
20 following 2014, the department shall present a report on the
21 tax credit 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 and the economic
24 development department and the children, youth and families
25 department, shall determine if a need remains for the credit,

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

7 [G-] D. For the purposes of this section,
8 "dependent children" means children under twelve years of
9 age.

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

19 **SECTION 14.** Section 7-2A-17.1 NMSA 1978 (being Laws
20 2003, Chapter 400, Section 2) is amended to read:

21 "7-2A-17.1. JOB MENTORSHIP TAX CREDIT.--

22 A. To encourage New Mexico businesses to hire
23 youth participating in career preparation education programs,
24 a taxpayer ~~[who]~~ that files ~~[an individual]~~ a New Mexico
25 corporate income tax return ~~[who is not a dependent of~~

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1 ~~another individual~~] and [~~who~~] that is an owner of a New
2 Mexico business may claim a credit in an amount equal to
3 fifty percent of gross wages paid to qualified students who
4 are employed by the business during the taxable year for
5 which the return is filed. The tax credit provided by this
6 section may be referred to as the "job mentorship tax
7 credit".

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

21 C. The department shall issue job mentorship tax
22 credit certificates upon request to any accredited New Mexico
23 secondary school that has a school-sanctioned career
24 preparation education program. The maximum number of
25 certificates that may be issued in a school year to any one

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1 school is equal to the number of qualified students in the
2 school-sanctioned career preparation education program on
3 October 15 of that school year, as certified by the school
4 principal.

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

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

16 (1) a properly executed job mentorship tax
17 credit certificate;

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

21 (3) information required by the secretary
22 that the employee was not also employed in the same taxable
23 year by another New Mexico business qualifying for and
24 claiming a job mentorship tax credit for that employee
25 pursuant to this section or the ~~[Corporate]~~ Income ~~[and~~

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1 ~~Franchise~~] Tax Act.

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

10 G. Beginning in 2014 and at six-year intervals
11 following 2014, the department shall present a report on the
12 job mentorship tax credit provided pursuant to this section
13 to the revenue stabilization and tax policy committee for
14 review. The committee, with the aid of the department and
15 the economic development department, shall determine if a
16 need remains for the credit, if the credit is effectively
17 being used for the purpose for which it was created and if
18 the 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. A husband and wife who file separate returns~~
24 ~~for a taxable year in which they could have filed a joint~~
25 ~~return may each claim only one-half of the credit that would~~

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1 ~~have been allowed on a joint return.~~

2 ~~H. A taxpayer who otherwise qualifies for and~~
3 ~~claims a job mentorship tax credit for employment of~~
4 ~~qualified students by a partnership, limited partnership,~~
5 ~~limited liability company, S corporation or other business~~
6 ~~association of which the taxpayer is a member may claim a~~
7 ~~credit only in proportion to his interest in the partnership,~~
8 ~~limited partnership, limited liability company, S corporation~~
9 ~~or association. The total credit claimed by all members of~~
10 ~~the business shall not exceed the maximum credit allowable~~
11 ~~pursuant to Subsection B of this section.~~

12 ~~F.]~~ H. 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
19 [~~partnership, limited partnership, limited liability company~~
20 ~~treated as a partnership for federal income tax purposes, S~~
21 ~~corporation or sole proprietorship]~~ corporation that carries
22 on a trade or business in New Mexico and that employs in New
23 Mexico fewer than three hundred full-time employees at any
24 one time during the taxable year; and

25 (3) "qualified student" means an individual

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

6 SECTION 15. Section 7-2A-19 NMSA 1978 (being Laws 2002,
7 Chapter 59, Section 1, as amended) is amended to read:

8 "7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--
9 LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

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

16 B. A person is eligible for the renewable energy
17 production tax credit if the person:

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

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

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

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

23 (1) one and one-half cents (\$.015) per
24 kilowatt-hour in the first taxable year in which the
25 qualified energy generator produces electricity using a

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

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

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

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

25 (7) three and one-half cents (\$.035) per

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1 kilowatt-hour in the seventh taxable year in which the
2 qualified energy generator produces electricity using a
3 solar-light-derived or solar-heat-derived qualified energy
4 resource;

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

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

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

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

23 F. As used in this section:

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

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1 (a) forest-related materials,
2 including mill residues, logging residues, forest thinnings,
3 slash, brush, low-commercial value materials or undesirable
4 species, salt cedar and other phreatophyte or woody
5 vegetation removed from river basins or watersheds and woody
6 material harvested for the purpose of forest fire fuel
7 reduction or forest health and watershed improvement;

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

13 (c) animal waste, including manure and
14 slaughterhouse and other processing waste;

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

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

23 (f) landfill gas, wastewater treatment
24 gas and biosolids, including organic waste byproducts
25 generated during the wastewater treatment process; and

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1 (g) segregated municipal solid waste,
2 excluding tires and medical and hazardous waste;

3 (2) "qualified energy generator" means a
4 facility with at least one megawatt generating capacity
5 located in New Mexico that produces electricity using a
6 qualified energy resource and that sells that electricity to
7 an unrelated person; and

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

14 (a) solar light;

15 (b) solar heat;

16 (c) wind; or

17 (d) biomass.

18 G. A person that holds title to a facility
19 generating electricity from a qualified energy resource or a
20 person that leases such a facility from a county or
21 municipality pursuant to an industrial revenue bond may
22 request certification of eligibility for the renewable energy
23 production tax credit from the energy, minerals and natural
24 resources department, which shall determine if the facility
25 is a qualified energy generator. The energy, minerals and

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

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1 qualified energy generators, the energy production means
2 used, the amount of energy produced by those qualified energy
3 generators and whether any applications could not be approved
4 due to program limits.

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

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

11 (2) the business entity:

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

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

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

25 (3) the taxpayer and all other taxpayers

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1 allocated a right to claim the renewable energy production
2 tax credit pursuant to this subsection own collectively at
3 least a five percent interest in a qualified energy
4 generator;

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

9 (5) the energy, minerals and natural
10 resources department certifies the allocation in writing to
11 the taxpayer.

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

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

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1 credit due the taxpayer.

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

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

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

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

23 M. Beginning in 2014 and at six-year intervals
24 following 2014, the department shall present a report on the
25 renewable energy production tax credit to the revenue

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

11 SECTION 16. Section 7-2A-21 NMSA 1978 (being Laws 2007,
12 Chapter 204, Section 4, as amended) is amended to read:

13 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

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

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1 B. A taxpayer that files a corporate income tax
 2 return is eligible to be granted a sustainable building tax
 3 credit by the department if the taxpayer submits a document
 4 issued pursuant to Subsection I of this section with the
 5 taxpayer's corporate income tax return.

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

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

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1		Over 50,000	
2		up to 500,000	\$2.00
3	LEED-EB or CS Silver	First 10,000	\$2.50
4		Next 40,000	\$1.25
5		Over 50,000	
6		up to 500,000	\$.50
7	LEED-EB or CS Gold	First 10,000	\$3.35
8		Next 40,000	\$1.40
9		Over 50,000	
10		up to 500,000	\$.70
11	LEED-EB or CS		
12	Platinum	First 10,000	\$4.40
13		Next 40,000	\$2.30
14		Over 50,000	
15		up to 500,000	\$1.40
16	LEED-CI Silver	First 10,000	\$1.40
17		Next 40,000	\$.70
18		Over 50,000	
19		up to 500,000	\$.30
20	LEED-CI Gold	First 10,000	\$1.90
21		Next 40,000	\$.80
22		Over 50,000	
23		up to 500,000	\$.40
24	LEED-CI Platinum	First 10,000	\$2.50
25		Next 40,000	\$1.30

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1 Over 50,000
2 up to 500,000 \$.80.

3 D. The amount of the sustainable building tax
4 credit that may be claimed with respect to a sustainable
5 residential building shall be calculated based on the amount
6 of qualified occupied square footage, as indicated on the
7 following chart:

8 Rating System/Level	9 Qualified Occupied	10 Tax Credit per Square Foot
11 LEED-H Silver or Build	12 First 2,000	13 \$5.00
14 Green NM Silver	15 Next 1,000	16 \$2.50
17 LEED-H Gold or Build	18 First 2,000	19 \$6.85
20 Green NM Gold	21 Next 1,000	22 \$3.40
23 LEED-H Platinum or Build	24 First 2,000	25 \$9.00
26 Green NM Emerald	27 Next 1,000	28 \$4.45
29 EPA ENERGY STAR		
30 Manufactured Housing	31 Up to 3,000	32 \$3.00.

33 E. A person that is a building owner may apply
34 for a certificate of eligibility for the sustainable
35 building tax credit from the energy, minerals and natural
36 resources department after the construction, installation or
37 renovation of the sustainable building is complete.
38 Applications shall be considered in the order received. If
39 the energy, minerals and natural resources department

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

20 (1) the owner of the sustainable residential
21 building at the time the certification level for the building
22 is awarded; or

23 (2) the subsequent purchaser of a
24 sustainable residential building with respect to which no tax
25 credit has been previously claimed.

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

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1 than the full amount allocated for tax credits for
2 sustainable commercial buildings.

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

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

22 I. If the requirements of this section have been
23 complied with, the department shall issue to the building
24 owner a document granting a sustainable building tax credit.
25 The document shall be numbered for identification and declare

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1 its date of issuance and the amount of the tax credit allowed
2 pursuant to this section. The document may be submitted by
3 the building owner with that taxpayer's income tax return, if
4 applicable, or may be sold, exchanged or otherwise
5 transferred to another taxpayer. The parties to such a
6 transaction shall notify the department of the sale, exchange
7 or transfer within ten days of the sale, exchange or
8 transfer.

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

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

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1 taxpayer's corporate income tax liability for that taxable
2 year, the excess may be carried forward for up to seven
3 years.

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

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

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1 [M-] N. For the purposes of this section:

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

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

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

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

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

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

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

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

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

25 (10) "LEED silver" means the rating in

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1 compliance with, or exceeding, the third-highest rating
2 awarded by the LEED certification process;

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

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

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

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

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

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

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

24 (b) the administrators of the build
25 green New Mexico rating system for those homes obtaining

1 build green New Mexico certification; and

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

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

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

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

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

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

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

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

5 (16) "sustainable residential building"

6 means:

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

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

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

25 (17) "tribal" means of, belonging to or

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1 created by a federally recognized Indian nation, tribe or
2 pueblo."

3 SECTION 17. Section 7-2A-23 NMSA 1978 (being Laws 2007,
4 Chapter 204, Section 8) is amended to read:

5 "7-2A-23. CREDIT--BLENDED BIODIESEL FUEL.--

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

- 18 (1) from January 1, 2007 until December 31,
19 2010, at a rate of three cents (\$.03) per gallon;
- 20 (2) from January 1, 2011 until December 31,
21 2011, at a rate of two cents (\$.02) per gallon; and
- 22 (3) from January 1, 2012 until December 31,
23 2012, at a rate of one cent (\$.01) per gallon.

24 B. The tax credit provided by this section may
25 not be claimed with respect to the same blended biodiesel

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1 fuel for which a credit has been claimed pursuant to the
2 Income Tax Act or for which a credit or refund has been
3 claimed pursuant to Section 7-16A-13 NMSA 1978.

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

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

25 E. A taxpayer claiming a credit pursuant to this

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1 section shall provide documentation of eligibility in form
2 and content as determined by the department.

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

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

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

25 (3) "diesel fuel" means any diesel-engine

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1 fuel used for the generation of power to propel a motor
2 vehicle."

3 SECTION 18. Section 7-2A-24 NMSA 1978 (being Laws 2009,
4 Chapter 271, Section 2) is amended to read:

5 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
6 CREDIT.--

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

23 B. A portion of the geothermal ground-coupled
24 heat pump tax credit that remains unused in a taxable year
25 may be carried forward for a maximum of ten consecutive

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1 taxable years following the taxable year in which the credit
2 originates until the credit is fully expended.

3 C. Prior to July 1, 2010, the energy, minerals
4 and natural resources department shall adopt rules
5 establishing procedures to provide certification of
6 geothermal ground-coupled heat pumps for purposes of
7 obtaining a geothermal ground-coupled heat pump tax credit.
8 The rules shall address technical specifications and
9 requirements relating to safety, building code and standards
10 compliance, minimum system sizes, system applications and
11 lists of eligible components. The energy, minerals and
12 natural resources department may modify the specifications
13 and requirements as necessary to maintain a high level of
14 system quality and performance.

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

20 E. Beginning in 2014 and at six-year intervals
21 following 2014, the department shall present a report on the
22 geothermal ground-coupled heat pump tax credit to the revenue
23 stabilization and tax policy committee for review. The
24 committee, with the aid of the department and the energy,
25 minerals and natural resources department, shall determine if

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

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

17 **SECTION 19.** Section 7-2E-1.1 NMSA 1978 (being Laws
18 2007, Chapter 172, Section 2) is amended to read:

19 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

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

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

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

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

14 (1) four qualifying periods for each
15 qualifying job performed or based at a location in a tier one
16 area; and

17 (2) two qualifying periods for each
18 qualifying job performed or based at a location in a tier two
19 area.

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

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1 tier two area.

2 D. The economic development department shall
3 determine which employers are eligible employers and shall
4 report the listing of eligible businesses to the taxation and
5 revenue department in a manner and at times the departments
6 shall agree upon.

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

25 F. The holder of the tax credit document may

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1 apply all or a portion of the rural job tax credit granted by
2 the document against the holder's modified combined tax
3 liability, personal income tax liability or corporate income
4 tax liability. Any balance of rural job tax credit granted
5 by the document may be carried forward for up to three years
6 from the date of issuance of the tax credit document. No
7 amount of rural job tax credit may be applied against a gross
8 receipts tax imposed by a municipality or county.

9 G. Notwithstanding the provisions of Section
10 7-1-8 NMSA 1978, the taxation and revenue department may
11 disclose to any person the balance of rural job tax credit
12 remaining on any tax credit document and the balance of
13 credit remaining on that document for any period.

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

21 ~~F.]~~ H. An eligible employer that creates a
22 qualifying job in the period beginning on or after July 1,
23 2006 but before July 1, 2007 or creates a qualifying job, the
24 qualifying period of which includes a part of the period
25 between July 1, 2006 and July 1, 2007, for which the eligible

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1 employer has not received a rural job tax credit document
2 pursuant to this section may submit an application for, and
3 the department may issue to the eligible employer applying, a
4 document granting a tax credit for the appropriate qualifying
5 period. Claims for a rural job tax credit submitted pursuant
6 to the provisions of this subsection shall be submitted
7 within three years from the date of issuance of the rural job
8 tax credit document.

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

23 J. As used in this section:

24 (1) "eligible employee" means any individual
25 other than an individual who:

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1 (a) bears any of the relationships
2 described in Paragraphs (1) through (8) of 26 U.S.C. Section
3 152(a) to the employer or, if the employer is a corporation,
4 to an individual who owns, directly or indirectly, more than
5 fifty percent in value of the outstanding stock of the
6 corporation or, if the employer is an entity other than a
7 corporation, to any individual who owns, directly or
8 indirectly, more than fifty percent of the capital and
9 profits interests in the entity;

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

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

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

4 (3) "metropolitan statistical area" means a
5 metropolitan statistical area in New Mexico as determined by
6 the United States bureau of the census;

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

20 (5) "qualifying job" means a job established
21 by the employer that is occupied by an eligible employee for
22 at least forty-eight weeks of a qualifying period;

23 (6) "qualifying period" means the period of
24 twelve months beginning on the day an eligible employee
25 begins working in a qualifying job or the period of twelve

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1 months beginning on the anniversary of the day an eligible
2 employee began working in a qualifying job;

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

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

11 (d) any area within ten miles of the
12 exterior boundaries of a municipality described in
13 Subparagraph (c) of this paragraph;

14 (8) "tier one area" means:
15 (a) any municipality within the rural
16 area if the municipality's population according to the most
17 recent federal decennial census is fifteen thousand or less;
18 or

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

21 (9) "tier two area" means any municipality
22 within the rural area if the municipality's population
23 according to the most recent federal decennial census is more
24 than fifteen thousand; and

25 (10) "wages" means wages as defined by

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1 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

2 SECTION 20. Section 7-2F-1 NMSA 1978 (being Laws 2002,
3 Chapter 36, Section 1, as amended) is amended to read:

4 "7-2F-1. FILM PRODUCTION TAX CREDIT.--

5 A. The tax credit created by this section may be
6 referred to as the "film production tax credit". An eligible
7 film production company may apply for, and the taxation and
8 revenue department may allow, a tax credit in an amount equal
9 to the percentage specified in Subsection B of this section
10 of:

11 (1) direct production expenditures made in
12 New Mexico that:

13 (a) are directly attributable to the
14 production in New Mexico of a film or commercial audiovisual
15 product;

16 (b) are subject to taxation by the
17 state of New Mexico; and

18 (c) exclude direct production
19 expenditures for which another taxpayer claims the film
20 production tax credit; and

21 (2) postproduction expenditures made in New
22 Mexico that:

23 (a) are directly attributable to the
24 production of a commercial film or audiovisual product;

25 (b) are for services performed in New

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1 Mexico;

2 (c) are subject to taxation by the
3 state of New Mexico; and

4 (d) exclude postproduction
5 expenditures for which another taxpayer claims the film
6 production tax credit.

7 B. Except as provided in Subsections C and J of
8 this section, the percentage to be applied in calculating the
9 amount of the film production tax credit is twenty-five
10 percent.

11 C. With respect to expenditures attributable to a
12 production for which the film production company receives a
13 tax credit pursuant to the federal new markets tax credit
14 program, the percentage to be applied in calculating the film
15 production tax credit is twenty percent.

16 D. The film production tax credit shall not be
17 claimed with respect to direct production expenditures or
18 postproduction expenditures for which the film production
19 company has delivered a nontaxable transaction certificate
20 pursuant to Section 7-9-86 NMSA 1978.

21 E. A long-form narrative film production for
22 which the film production tax credit is claimed pursuant to
23 Paragraph (1) of Subsection A of this section shall contain
24 an acknowledgment that the production was filmed in New
25 Mexico.

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1 F. To be eligible for the film production tax
2 credit, a film production company shall submit to the New
3 Mexico film division of the economic development department
4 information required by the division to demonstrate
5 conformity with the requirements of this section and shall
6 agree in writing:

7 (1) to pay all obligations the film
8 production company has incurred in New Mexico;

9 (2) to publish, at completion of principal
10 photography, a notice at least once a week for three
11 consecutive weeks in local newspapers in regions where
12 filming has taken place to notify the public of the need to
13 file creditor claims against the film production company by a
14 specified date;

15 (3) that outstanding obligations are not
16 waived should a creditor fail to file by the specified date;
17 and

18 (4) to delay filing of a claim for the film
19 production tax credit until the New Mexico film division
20 delivers written notification to the taxation and revenue
21 department that the film production company has fulfilled all
22 requirements for the credit.

23 G. The New Mexico film division shall determine
24 the eligibility of the company and shall report this
25 information to the taxation and revenue department in a

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1 manner and at times the economic development department and
2 the taxation and revenue department shall agree upon.

3 H. To receive a film production tax credit, a
4 film production company shall apply to the taxation and
5 revenue department on forms and in the manner the department
6 may prescribe. The application shall include a certification
7 of the amount of direct production expenditures or
8 postproduction expenditures made in New Mexico with respect
9 to the film production for which the film production company
10 is seeking the film production tax credit. If the
11 requirements of this section have been complied with, the
12 taxation and revenue department shall approve the film
13 production tax credit and issue a document granting the tax
14 credit.

15 I. The film production company may apply all or a
16 portion of the film production tax credit granted against
17 personal income tax liability or corporate income tax
18 liability. If the amount of the film production tax credit
19 claimed exceeds the film production company's tax liability
20 for the taxable year in which the credit is being claimed,
21 the excess shall be refunded.

22 J. As applied to direct production expenditures
23 for the services of performing artists, the film production
24 tax credit authorized by this section shall not exceed five
25 million dollars (\$5,000,000) for services rendered by all

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1 performing artists in a production for which the film
2 production tax credit is claimed.

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

16 SECTION 21. Section 7-9-79.2 NMSA 1978 (being Laws
17 2007, Chapter 204, Section 9) is amended to read:

18 "7-9-79.2. GROSS RECEIPTS TAX--COMPENSATING TAX--
19 BIODIESEL BLENDING FACILITY TAX CREDIT.--

20 A. A taxpayer who is a rack operator as defined
21 in the Special Fuels Supplier Tax Act and who installs
22 biodiesel blending equipment in property owned by the
23 taxpayer for the purpose of establishing or expanding a
24 facility to produce blended biodiesel fuel is eligible to
25 claim a credit against gross receipts tax or compensating

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1 tax. The credit shall be an amount equal to thirty percent
2 of the purchase cost of the equipment plus thirty percent of
3 the cost of installing that equipment. The credit provided
4 by this section may be referred to as the "biodiesel blending
5 facility tax credit".

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

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

21 D. To claim the biodiesel blending facility tax
22 credit, the taxpayer shall provide to the taxation and
23 revenue department the certificate of eligibility from the
24 energy, minerals and natural resources department. Upon
25 receipt of the certificate, the taxation and revenue

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1 department shall approve the claim for the credit if the
2 total cumulative amount of approved claims for the credit for
3 all taxpayers for the calendar year does not exceed one
4 million dollars (\$1,000,000). The department shall maintain
5 a record of the cumulative amount of claims for the credit
6 that have been approved and when it determines that this
7 cumulative amount has reached one million dollars
8 (\$1,000,000), it shall cease approving any additional claims
9 for the biodiesel blending facility tax credit.

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

23 F. The tax credit provided by this section may
24 only be applied against the taxpayer's gross receipts tax
25 liability or compensating tax liability. If the credit

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1 exceeds the taxpayer's tax liability in the reporting period
2 for which it is granted, the credit may be carried forward
3 for four years from the date of the certificate of
4 eligibility.

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

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

19 (1) "biodiesel" means renewable,
20 biodegradable, monoalkyl ester combustible liquid fuel that
21 is derived from agricultural plant oils or animal fats and
22 that meets American society for testing and materials D 6751
23 standard specification for biodiesel B100 blend stock for
24 distillate fuels;

25 (2) "biodiesel blending equipment" means

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1 equipment necessary for the process of blending biodiesel
2 with diesel fuel to produce blended biodiesel fuel;

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

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

8 SECTION 22. Section 7-9-96.1 NMSA 1978 (being Laws
9 2007, Chapter 361, Section 7) is amended to read:

10 "7-9-96.1. CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF
11 CERTAIN HOSPITALS.--

12 A. A hospital licensed by the department of
13 health may claim a credit for each reporting period against
14 the gross receipts tax due for that reporting period as
15 follows:

16 (1) for a hospital located in a
17 municipality:

18 (a) on or after July 1, 2007 but
19 before July 1, 2008, in an amount equal to seven hundred
20 fifty-five thousandths percent of the hospital's taxable
21 gross receipts for that reporting period after all applicable
22 deductions have been taken;

23 (b) on or after July 1, 2008 but
24 before July 1, 2009, in an amount equal to one and fifty-one
25 hundredths percent of the hospital's taxable gross receipts

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1 for that reporting period after all applicable deductions
2 have been taken;

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

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

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

18 (2) for a hospital located in the
19 unincorporated area of a county:

20 (a) on or after July 1, 2007 but
21 before July 1, 2008, in an amount equal to one percent of the
22 hospital's taxable gross receipts for that reporting period
23 after all applicable deductions have been taken;

24 (b) on or after July 1, 2008 but
25 before July 1, 2009, in an amount equal to two percent of the

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

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

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

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

15 B. Beginning in 2014 and at six-year intervals
16 following 2014, the department shall present a report on the
17 credits 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, shall determine if
20 a need remains for the credits, if the credits are
21 effectively being used for the purpose for which they were
22 created and if the use of the credits is cost-effective. The
23 credits may be proposed for repeal or amendment if they are
24 found by the committee to be ineffective, more costly than is
25 warranted by the purpose for which the credits were proposed

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1 or unused or otherwise no longer needed.

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

10 SECTION 23. Section 7-9-96.2 NMSA 1978 (being Laws
11 2007, Chapter 361, Section 8) is amended to read:

12 "7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES
13 FOR SERVICES PROVIDED IN A HOSPITAL.--

14 A. A licensed medical doctor or licensed
15 osteopathic physician may claim a credit against gross
16 receipts taxes due in the following amounts:

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

20 (2) from July 1, 2008 through June 30, 2009,
21 sixty-seven percent of the value of unpaid qualified health
22 care services; and

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

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

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

14 (1) "qualified health care services" means
15 medical care services provided by a licensed medical doctor
16 or licensed osteopathic physician while on call to a
17 hospital; and

18 (2) "value of unpaid qualified health care
19 services" means the amount that is charged for qualified
20 health care services, not to exceed one hundred thirty
21 percent of the reimbursement rate for the services under the
22 medicaid program administered by the human services
23 department, that remains unpaid one year after the date of
24 billing and that the licensed medical doctor or licensed
25 osteopathic physician has reason to believe will not be paid

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1 because:

2 (a) at the time the services were
3 provided, the person receiving the services had no health
4 insurance or had health insurance that did not cover the
5 services provided;

6 (b) at the time the services were
7 provided, the person receiving the services was not eligible
8 for medicaid; and

9 (c) the charges are not reimbursable
10 under a program established pursuant to the Indigent Hospital
11 and County Health Care Act."

12 SECTION 24. Section 7-9A-2.1 NMSA 1978 (being Laws
13 2001, Chapter 57, Section 2 and Laws 2001, Chapter 337,
14 Section 2) is amended to read:

15 "7-9A-2.1. LEGISLATIVE OVERSIGHT.--~~[The interim revenue~~
16 ~~stabilization and tax policy committee during the 2005~~
17 ~~interim shall conduct a review of the use of the investment~~
18 ~~credit and the effectiveness of the credit in meeting the~~
19 ~~state's economic development and tax policy objectives.~~
20 ~~Following the study, the committee shall determine whether~~
21 ~~changes are necessary in the Investment Credit Act and report~~
22 ~~its findings and recommendations to the second session of the~~
23 ~~forty-seventh legislature] Beginning in 2014 and at six-year~~
24 ~~intervals following 2014, the department shall present a~~
25 ~~report on the credit provided pursuant to the Investment~~

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

11 SECTION 25. Section 7-9E-11 NMSA 1978 (being Laws 2007,
12 Chapter 172, Section 20) is amended to read:

13 "7-9E-11. REPORTING.--

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

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

3 C. An annual report shall summarize activities
4 related to and the results of the small business assistance
5 programs that were provided by one or more national
6 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. At any time after receipt of an annual report
22 required pursuant to this section from one or more national
23 laboratories eligible for tax credits authorized pursuant to
24 the Laboratory Partnership with Small Business Tax Credit
25 Act, the department or the economic development department

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

5 E. 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 26. Section 7-9F-12 NMSA 1978 (being Laws 2000
20 (2nd S.S.), Chapter 22, Section 12) is amended to read:

21 "7-9F-12. DEPARTMENT REPORT.--

22 A. In October 2003 and each year thereafter, the
23 department shall report to the legislative finance committee
24 and the revenue stabilization and tax policy committee on the
25 fiscal and economic impacts of the Technology Jobs Tax Credit

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1 Act using the most recently available data for the two prior
2 fiscal years. The report shall include the number of
3 taxpayers who have received basic credits or additional
4 credits under the Technology Jobs Tax Credit Act, the amounts
5 of the basic credits and additional credits, the geographic
6 locations of the qualified facilities and the payroll
7 increases of taxpayers related to additional credits, subject
8 to the confidentiality provisions of Section 7-1-8 NMSA 1978.

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

25 SECTION 27. Section 7-9G-1 NMSA 1978 (being Laws 2004,

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1 Chapter 15, Section 1, as amended) is amended to read:

2 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING
3 HIGH-WAGE JOBS.--

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

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

14 C. The high-wage jobs tax credit may be claimed
15 by an eligible employer for each new high-wage economic-based
16 job performed for the year in which the new high-wage
17 economic-based job is created and for the three following
18 qualifying periods.

19 D. A new high-wage economic-based job shall not
20 be eligible for a credit pursuant to this section unless the
21 eligible employer's total number of employees with new high-
22 wage economic-based jobs on the last day of the qualifying
23 period at the location at which the job is performed or based
24 is at least one more than the number on the day prior to the
25 date the job was created.

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

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

7 (2) the number of weeks the position was
8 occupied during the qualifying period;

9 (3) whether the new high-wage economic-based
10 job was in a municipality with a population of forty thousand
11 or more or with a population of less than forty thousand
12 according to the most recent federal decennial census and
13 whether the job was in the unincorporated area of a county;
14 and

15 (4) the total number of employees employed
16 by the employer at the job location on the day prior to the
17 qualifying period and on the last day of the qualifying
18 period.

19 F. To receive a high-wage jobs tax credit with
20 respect to any qualifying period, an eligible employer shall
21 apply to the taxation and revenue department on forms and in
22 the manner prescribed by the department. The application
23 shall include a certification made pursuant to Subsection E
24 of this section.

25 G. The credit provided in this section may be

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1 deducted from the modified combined tax liability of a
2 taxpayer. If the credit exceeds the modified combined tax
3 liability of the taxpayer, the excess shall be refunded to
4 the taxpayer.

5 H. The economic development department shall
6 report to the appropriate interim legislative committee
7 before November 1 of each year the cost of this tax credit to
8 the state and its impact on company recruitment and job
9 creation.

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

23 [~~F.~~] J. As used in this section:

24 (1) "benefits" means any employee benefit
25 plan as defined in Title 1, Section 3 of the federal Employee

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1 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

2 (2) "eligible employee" means an individual
3 who is employed by an eligible employer and who is a resident
4 of New Mexico; "eligible employee" does not include an
5 individual who:

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

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

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

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

6 (d) is working or has worked as an
7 employee or as an independent contractor for an entity that
8 directly or indirectly owns stock in a corporation of the
9 eligible employer or other interest of the eligible employer
10 that represents fifty percent or more of the total voting
11 power of that entity or has a value equal to fifty percent or
12 more of the capital and profits interest in the entity;

13 (3) "eligible employer" means an employer
14 that:

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

20 (b) is eligible for development
21 training program assistance pursuant to Section 21-19-7 NMSA
22 1978;

23 (4) "modified combined tax liability" means
24 the total liability for the reporting period for the gross
25 receipts tax imposed by Section 7-9-4 NMSA 1978 together with

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1 any tax collected at the same time and in the same manner as
2 the gross receipts tax, such as the compensating tax, the
3 withholding tax, the interstate telecommunications gross
4 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
5 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
6 minus the amount of any credit other than the high-wage jobs
7 tax credit applied against any or all of these taxes or
8 surcharges; but "modified combined tax liability" excludes
9 all amounts collected with respect to local option gross
10 receipts taxes;

11 (5) "new high-wage economic-based job" means
12 a job created by an eligible employer on or after July 1,
13 2004 and prior to July 1, 2015 that is occupied for at least
14 forty-eight weeks of a qualifying period by an eligible
15 employee who is paid wages calculated for the qualifying
16 period to be at least:

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

21 (b) twenty-eight thousand dollars
22 (\$28,000) if the job is performed or based in a municipality
23 with a population of less than forty thousand according to the
24 most recent federal decennial census or in the unincorporated
25 area of a county;

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1 (6) "qualifying period" means the period of
2 twelve months beginning on the day an eligible employee begins
3 working in a new high-wage economic-based job or the period of
4 twelve months beginning on the anniversary of the day an
5 eligible employee began working in a new high-wage economic-
6 based job; and

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

9 SECTION 28. Section 7-9H-6 NMSA 1978 (being Laws 2005,
10 Chapter 104, Section 16) is amended to read:

11 "7-9H-6. ADMINISTRATION OF THE ACT--REPORTING.--

12 A. The department shall administer the Research
13 and Development Small Business Tax Credit Act pursuant to the
14 Tax Administration Act.

15 B. Beginning in 2014 and at six-year intervals
16 following 2014, the department shall present a report that
17 analyzes the credits provided pursuant to the Research and
18 Development Small Business Tax Credit Act to the revenue
19 stabilization and tax policy committee for the purpose of
20 facilitating the review by that committee of those credits.
21 The revenue stabilization and tax policy committee, with the
22 aid of the department and the economic development department,
23 shall determine if a need remains for the credits, if the
24 credits are effectively being used for the purpose for which
25 they were created and if the use of the credits is cost-

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