

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

AN ACT  
RELATING TO TAXATION; AMENDING PROVISIONS OF THE RENEWABLE  
ENERGY PRODUCTION TAX CREDIT IN THE CORPORATE INCOME AND  
FRANCHISE TAX ACT; PROVIDING FOR A RENEWABLE ENERGY  
PRODUCTION TAX CREDIT IN THE INCOME TAX ACT; PROVIDING A  
SUSTAINABLE BUILDING TAX CREDIT IN THE INCOME TAX ACT AND THE  
CORPORATE INCOME AND FRANCHISE TAX ACT; PROVIDING A CREDIT IN  
THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX  
ACT FOR AGRICULTURAL WATER CONSERVATION EXPENSES; PROVIDING  
TAX INCENTIVES FOR PRODUCTION AND SALE OF BIODIESEL FUEL;  
PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM  
THE SALE AND INSTALLATION OF CERTAIN SOLAR ENERGY SYSTEMS;  
ENACTING THE ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX  
CREDIT ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME  
SECTION OF LAW IN LAWS 2005 BY REPEALING LAWS 2005, CHAPTER  
104, SECTION 7; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE NMSA 1978.

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

Section 1. Section 7-2A-19 NMSA 1978 (being Laws 2002,  
Chapter 59, Section 1, as amended by Laws 2005, Chapter 104,  
Section 7 and by Laws 2005, Chapter 181, Section 1) is  
amended to read:

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

1           A. The tax credit provided in this section may be  
2 referred to as the "renewable energy production tax credit".  
3 The tax credit provided in this section may not be claimed  
4 with respect to the same electricity production for which the  
5 renewable energy production tax credit provided in the Income  
6 Tax Act has been claimed.

7           B. A person is eligible for the renewable energy  
8 production tax credit if the person:

9                   (1) holds title to a qualified energy  
10 generator that first produced electricity on or before  
11 January 1, 2018; or

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

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

1 first four hundred thousand megawatt-hours of electricity  
2 produced by the qualified energy generator.

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

14 (1) one and one-half cents (\$.015) per  
15 kilowatt-hour in the first taxable year in which the  
16 qualified energy generator produces electricity using a  
17 solar-light-derived or solar-heat-derived qualified energy  
18 resource;

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

23 (3) two and one-half cents (\$.025) per  
24 kilowatt-hour in the third taxable year in which the  
25 qualified energy generator produces electricity using a

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

3 (4) three cents (\$.03) per kilowatt-hour in  
4 the fourth 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 (5) three and one-half cents (\$.035) per  
8 kilowatt-hour in the fifth 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 (6) four cents (\$.04) per kilowatt-hour in  
13 the sixth 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 (7) three and one-half cents (\$.035) per  
17 kilowatt-hour in the seventh 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 (8) three cents (\$.03) per kilowatt-hour in  
22 the eighth 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 (9) two and one-half cents (\$.025) per

1 kilowatt-hour in the ninth 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; and

5 (10) two cents (\$.02) per kilowatt-hour in  
6 the tenth 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 E. A taxpayer eligible for a renewable energy  
10 production tax credit pursuant to Subsection B of this  
11 section shall be eligible for the renewable energy production  
12 tax credit for ten consecutive years, beginning on the date  
13 the qualified energy generator begins producing electricity.

14 F. As used in this section:

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

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

24 (b) agricultural-related materials,  
25 including orchard trees, vineyard, grain or crop residues,

1 including straws and stover, aquatic plants and agricultural  
2 processed co-products and waste products, including fats,  
3 oils, greases, whey and lactose;

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

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

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

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

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

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

24 (3) "qualified energy resource" means a  
25 resource that generates electrical energy by means of a

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

5 (a) solar light;

6 (b) solar heat;

7 (c) wind; or

8 (d) biomass.

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

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

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

24 (1) the taxpayer owns an interest in a  
25 business entity that is taxed for federal income tax purposes



1 as a partnership;

2 (2) the business entity:

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

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

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

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

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

25 (5) the energy, minerals and natural

1 resources department certifies the allocation in writing to  
2 the taxpayer.

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

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

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

25 (1) the excess may be carried forward for a

1 period of five taxable years; or

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

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

14 Section 2. A new section of the Income Tax Act is  
15 enacted to read:

16 "RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

17 A. The tax credit provided in this section may be  
18 referred to as the "renewable energy production tax credit".  
19 The tax credit provided in this section may not be claimed  
20 with respect to the same electricity production for which a  
21 tax credit pursuant to Section 7-2A-19 has been claimed.

22 B. A taxpayer who files an individual New Mexico  
23 income tax return and who is not a dependent of another  
24 taxpayer is eligible for the renewable energy production tax  
25 credit if the taxpayer:

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

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

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

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

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

6 (1) one and one-half cents (\$.015) per  
7 kilowatt-hour in the first taxable year in which the qualified  
8 energy generator produces electricity using a  
9 solar-light-derived or solar-heat-derived qualified energy  
10 resource;

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

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

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

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

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

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

7 (7) three and one-half cents (\$.035) per  
8 kilowatt-hour in the seventh 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 (8) three cents (\$.03) per kilowatt-hour in  
13 the eighth 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 (9) two and one-half cents (\$.025) per  
17 kilowatt-hour in the ninth taxable year in which the qualified  
18 energy generator produces electricity using a  
19 solar-light-derived or solar-heat-derived qualified energy  
20 resource; and

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

25 E. A taxpayer eligible for a renewable energy

1 production tax credit pursuant to Subsection B of this section  
2 shall be eligible for the renewable energy production tax  
3 credit for ten consecutive years, beginning on the date the  
4 qualified energy generator begins producing electricity.

5 F. As used in this section:

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

8 (a) forest-related materials, including  
9 mill residues, logging residues, forest thinnings, slash,  
10 brush, low-commercial-value materials or undesirable species,  
11 salt cedar and other phreatophyte or woody vegetation removed  
12 from river basins or watersheds and woody material harvested  
13 for the purpose of forest fire fuel reduction or forest health  
14 and watershed improvement;

15 (b) agricultural-related materials,  
16 including orchard trees, vineyard, grain or crop residues,  
17 including straws and stover, aquatic plants and agricultural  
18 processed co-products and waste products, including fats,  
19 oils, greases, whey and lactose;

20 (c) animal waste, including manure and  
21 slaughterhouse and other processing waste;

22 (d) solid woody waste materials,  
23 including landscape or right-of-way tree trimmings, rangeland  
24 maintenance residues, waste pallets, crates and manufacturing,  
25 construction and demolition wood wastes, excluding

1 pressure-treated, chemically treated or painted wood wastes  
2 and wood contaminated with plastic;

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

5 (f) landfill gas, wastewater treatment  
6 gas and biosolids, including organic waste byproducts  
7 generated during the wastewater treatment process; and

8 (g) segregated municipal solid waste,  
9 excluding tires and medical and hazardous waste;

10 (2) "qualified energy generator" means a  
11 facility with at least one megawatt generating capacity  
12 located in New Mexico that produces electricity using a  
13 qualified energy resource and that sells that electricity to  
14 an unrelated person; and

15 (3) "qualified energy resource" means a  
16 resource that generates electrical energy by means of a  
17 fluidized bed technology or similar low-emissions technology  
18 or a zero-emissions generation technology that has substantial  
19 long-term production potential and that uses only the  
20 following energy sources:

21 (a) solar light;

22 (b) solar heat;

23 (c) wind; or

24 (d) biomass.

25 G. A person that holds title to a facility



1 generating electricity from a qualified energy resource or a  
2 person that leases such a facility from a county or  
3 municipality pursuant to an industrial revenue bond may  
4 request certification of eligibility for the renewable energy  
5 production tax credit from the energy, minerals and natural  
6 resources department, which shall determine if the facility is  
7 a qualified energy generator. The energy, minerals and  
8 natural resources department may certify the eligibility of an  
9 energy generator only if the total amount of electricity that  
10 may be produced annually by all qualified energy generators  
11 that are certified pursuant to this section and pursuant to  
12 Section 7-2A-19 NMSA 1978 will not exceed a total of two  
13 million megawatt-hours plus an additional five hundred  
14 thousand megawatt-hours produced by qualified energy  
15 generators using a solar-light-derived or solar-heat-derived  
16 qualified energy resource. Applications shall be considered  
17 in the order received. The energy, minerals and natural  
18 resources department may estimate the annual  
19 power-generating potential of a generating facility for the  
20 purposes of this section. The energy, minerals and natural  
21 resources department shall issue a certificate to the  
22 applicant stating whether the facility is an eligible  
23 qualified energy generator and the estimated annual production  
24 potential of the generating facility, which shall be the limit  
25 of that facility's energy production eligible for the tax

1 credit for the taxable year. The energy, minerals and natural  
2 resources department may issue rules governing the procedure  
3 for administering the provisions of this subsection and shall  
4 report annually to the appropriate interim legislative  
5 committee information that will allow the legislative  
6 committee to analyze the effectiveness of the renewable energy  
7 production tax credit, including the identity of qualified  
8 energy generators, the energy production means used, the  
9 amount of energy produced by those qualified energy generators  
10 and whether any applications could not be approved due to  
11 program limits.

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

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

18 (2) the business entity:

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

22 (b) owns an interest in a business  
23 entity that is also taxed for federal income tax purposes as a  
24 partnership and that would qualify for the renewable energy  
25 production tax credit pursuant to Paragraph (1) or (2) of

1 Subsection B of this section; or

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

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

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

15 (5) the energy, minerals and natural  
16 resources department certifies the allocation in writing to  
17 the taxpayer.

18 I. Upon receipt of notice of an allocation of the  
19 right to claim all or a portion of the renewable energy  
20 production tax credit, the energy, minerals and natural  
21 resources department shall promptly certify the allocation in  
22 writing to the recipient of the allocation.

23 J. 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

1 have been allowed on a joint return.

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

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

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

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

25 M. Once a taxpayer has been granted a renewable

1 energy production tax credit for a given facility, that  
2 taxpayer shall be allowed to retain the facility's original  
3 date of application for tax credits for that facility until  
4 either the facility goes out of production for more than six  
5 consecutive months in a year or until the facility's ten-year  
6 eligibility has expired."

7 Section 3. A new section of the Income Tax Act is  
8 enacted to read:

9 "SUSTAINABLE BUILDING TAX CREDIT.--

10 A. The tax credit provided by this section may be  
11 referred to as the "sustainable building tax credit". The  
12 sustainable building tax credit shall be available for the  
13 construction in New Mexico of a sustainable building or the  
14 renovation of an existing building in New Mexico into a  
15 sustainable building. The tax credit provided in this section  
16 may not be claimed with respect to the same sustainable  
17 building for which the sustainable building tax credit  
18 provided in the Corporate Income and Franchise Tax Act has  
19 been claimed.

20 B. A taxpayer who files an income tax return is  
21 eligible to apply for a sustainable building tax credit if the  
22 taxpayer is:

23 (1) the owner of the building at the time  
24 the certification level for the building in the LEED green  
25 building rating system or the build green New Mexico rating

1 system is awarded; or

2 (2) the subsequent purchaser of a  
3 sustainable building with respect to which no tax credit has  
4 been previously claimed, if the certification level for the  
5 building in the LEED green building rating system or the build  
6 green New Mexico rating system is awarded on or after January  
7 1, 2007.

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

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

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

14                   D. The amount of the sustainable building tax  
15 credit that may be claimed with respect to a sustainable  
16 residential building shall be calculated based on the  
17 certification level the building has achieved in the LEED  
18 green building rating system or the build green New Mexico  
19 rating system and the amount of qualified occupied square  
20 footage, as indicated on the following chart:

21	Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
22			
23	Build Green NM Gold	First 2,000	\$4.50
24		Next 1,000	\$2.00

25 LEED-H Silver

First 2,000                   \$5.00

1		Next 1,000	\$2.50
2	LEED-H Gold	First 2,000	\$6.85
3		Next 1,000	\$3.40
4	LEED-H Platinum	First 2,000	\$9.00
5	EPA ENERGY STAR Manufactured Housing	Next 1,000	\$4.45
6		Up to 3,000	\$3.00.

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



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 Corporate Income and Franchise Tax Act shall  
7 not exceed in any calendar year an aggregate amount of five  
8 million dollars (\$5,000,000) with respect to sustainable  
9 commercial buildings and an aggregate amount of five million  
10 dollars (\$5,000,000) with respect to sustainable residential  
11 buildings; provided that no more than one million two hundred  
12 fifty thousand dollars (\$1,250,000) of the aggregate amount  
13 with respect to sustainable residential buildings shall be for  
14 manufactured housing.

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

25           H. To be eligible for the sustainable building tax SB 463  
Page 25

1 credit, the taxpayer must provide to the taxation and revenue  
2 department a certificate of eligibility issued by the energy,  
3 minerals and natural resources department pursuant to the  
4 requirements of Subsection E of this section and any other  
5 information the taxation and revenue department may require to  
6 determine the amount of the tax credit due the taxpayer.

7 I. If the requirements of this section have been  
8 complied with, the department shall issue to the applicant a  
9 document granting a sustainable building tax credit. The  
10 document shall be numbered for identification and declare its  
11 date of issuance and the amount of the tax credit allowed  
12 pursuant to this section. The document may be sold, exchanged  
13 or otherwise transferred. The parties to such a transaction  
14 shall notify the department of the sale, exchange or transfer  
15 within ten days of the sale, exchange or transfer.

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

1 seven years.

2 K. If the total amount of a sustainable building  
3 tax credit approved by the department is less than twenty-five  
4 thousand dollars (\$25,000), the entire amount of the credit  
5 may be applied against the taxpayer's income tax liability for  
6 the taxable year in which the credit is approved. If the  
7 amount of the credit exceeds the taxpayer's income tax  
8 liability for that taxable year, the excess may be carried  
9 forward for up to seven years.

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

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

23 N. For the purposes of this section:

24 (1) "build green New Mexico rating system"  
25 means the certification standards adopted by the homebuilders

1 association of central New Mexico;

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

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

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

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

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

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

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

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

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

25 (11) "qualified occupied square footage"

1 means the occupied spaces of the building as determined by:

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

4 (b) the administrators of the build  
5 green New Mexico rating system for those homes obtaining build  
6 green New Mexico certification; and

7 (c) the United States environmental  
8 protection agency for ENERGY STAR-certified manufactured  
9 homes;

10 (12) "sustainable building" means either a  
11 sustainable commercial building or a sustainable residential  
12 building;

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

16 (a) is certified by the United States  
17 green building council at LEED-Silver or higher;

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

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

1 energy; and beginning January 1, 2012, a sixty percent energy  
2 reduction will be required based on the national average for  
3 that building type as published by the United States  
4 department of energy; and 2) is substantiated by the United  
5 States environmental protection agency target finder energy  
6 performance results form, dated no sooner than the schematic  
7 design phase of development; and

8 (14) "sustainable residential building"

9 means:

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

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

24 (c) manufactured housing as defined by  
25 the United States department of housing and urban development

1 that is ENERGY STAR-qualified by the United States  
2 environmental protection agency."

3 Section 4. A new section of the Corporate Income and  
4 Franchise Tax Act is enacted to read:

5 "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 or the  
10 renovation of an existing building in New Mexico into a  
11 sustainable building. The tax credit provided in this section  
12 may not be claimed with respect to the same sustainable  
13 building for which the sustainable building tax credit  
14 provided in the Income Tax Act has been claimed.

15 B. A taxpayer that files a corporate income tax  
16 return is eligible to apply for a sustainable building tax  
17 credit if the taxpayer is:

18 (1) the owner of the building at the time  
19 the certification level for the building in the LEED green  
20 building rating system or the build green New Mexico rating  
21 system is awarded; or

22 (2) the subsequent purchaser of a  
23 sustainable building with respect to which no tax credit has  
24 been previously claimed, if the certification level for the  
25 building in the LEED green building rating system or the build

1 green New Mexico rating system is awarded on or after  
2 January 1, 2007.

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

10 LEED Rating Level	11 Qualified Occupied Square Footage	12 Tax Credit per Square Foot
13 LEED-NC Silver	14 First 10,000	15 \$3.50
	16 Next 40,000	17 \$1.75
	18 Over 50,000 up to 500,000	19 \$.70
20 LEED-NC Gold	21 First 10,000	22 \$4.75
	23 Next 40,000	24 \$2.00
	25 Over 50,000 up to 500,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000 up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000 up to 500,000	\$.50
LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000 up to 500,000	\$.70
LEED-EB or CS Platinum	First 10,000	\$4.40



1		Next 40,000	\$2.30
2		Over 50,000 up to 500,000	\$1.40
3	LEED-CI Silver	First 10,000	\$1.40
4		Next 40,000	\$ .70
5		Over 50,000 up to 500,000	\$ .30
6	LEED-CI Gold	First 10,000	\$1.90
7		Next 40,000	\$ .80
8		Over 50,000 up to 500,000	\$ .40
9	LEED-CI Platinum	First 10,000	\$2.50
10		Next 40,000	\$1.30
		Over 50,000 up to 500,000	\$.80.

11 D. The amount of the sustainable building tax  
12 credit that may be claimed with respect to a sustainable  
13 residential building shall be calculated based on the  
14 certification level the building has achieved in the LEED  
15 green building rating system or the build green New Mexico  
16 rating system and the amount of qualified occupied square  
17 footage, as indicated on the following chart:

18 Rating System/Level	19 Qualified Occupied Square Footage	20 Tax Credit per Square Foot
21 Build Green NM Gold	First 2,000	\$4.50
	Next 1,000	\$2.00
22 LEED-H Silver	First 2,000	\$5.00
	Next 1,000	\$2.50
23 LEED-H Gold	First 2,000	\$6.85
	Next 1,000	\$3.40
24 LEED-H Platinum	First 2,000	\$9.00
25	Next 1,000	\$4.45

1 EPA ENERGY STAR  
2 Manufactured Housing Up to 3,000 \$3.00.

3 E. A taxpayer may apply for certification of  
4 eligibility for the sustainable building tax credit from the  
5 energy, minerals and natural resources department after the  
6 construction or renovation of the sustainable building is  
7 complete. Applications shall be considered in the order  
8 received. If the energy, minerals and natural resources  
9 department determines that the taxpayer meets the requirements  
10 of Subsection B of this section and that the building with  
11 respect to which the tax credit application is made meets the  
12 requirements of this section as a sustainable residential  
13 building or a sustainable commercial building, it may issue a  
14 certificate of eligibility to the taxpayer, subject to the  
15 limitation in Subsection F of this section. The certificate  
16 shall include the rating system certification level awarded to  
17 the building, the amount of qualified occupied square footage  
18 in the building and a calculation of the maximum amount of  
19 sustainable building tax credit for which the taxpayer would  
20 be eligible. The energy, minerals and natural resources  
21 department may issue rules governing the procedure for  
22 administering the provisions of this subsection.

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

1 by certificates of eligibility issued by the energy, minerals  
2 and natural resources department pursuant to this section and  
3 pursuant to the Income Tax Act shall not exceed in any  
4 calendar year an aggregate amount of five million dollars  
5 (\$5,000,000) with respect to sustainable commercial buildings  
6 and an aggregate amount of five million dollars (\$5,000,000)  
7 with respect to sustainable residential buildings; provided  
8 that no more than one million two hundred fifty thousand  
9 dollars (\$1,250,000) of the aggregate amount with respect to  
10 sustainable residential buildings shall be for manufactured  
11 housing.

12 G. Installation of a solar thermal system or a  
13 photovoltaic system eligible for the solar market development  
14 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be  
15 used as a component of qualification for the rating system  
16 certification level used in determining eligibility for the  
17 sustainable building tax credit, unless a solar market  
18 development tax credit pursuant to Section 7-2-18.14 NMSA 1978  
19 has not been claimed with respect to that system and the  
20 taxpayer certifies that such a tax credit will not be claimed  
21 with respect to that system.

22 H. To be eligible for the sustainable building tax  
23 credit, the taxpayer must provide to the taxation and revenue  
24 department a certificate of eligibility issued by the energy,  
25 minerals and natural resources department pursuant to the

1 requirements of Subsection E of this section and any other  
2 information the taxation and revenue department may require to  
3 determine the amount of the tax credit due the taxpayer.

4 I. If the requirements of this section have been  
5 complied with, the department shall issue to the applicant a  
6 document granting a sustainable building tax credit. The  
7 document shall be numbered for identification and declare its  
8 date of issuance and the amount of the tax credit allowed  
9 pursuant to this section. The document may be sold, exchanged  
10 or otherwise transferred. The parties to such a transaction  
11 shall notify the department of the sale, exchange or transfer  
12 within ten days of the sale, exchange or transfer.

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

24 K. If the total amount of a sustainable building  
25 tax credit approved by the department is less than twenty-five

1 thousand dollars (\$25,000), the entire amount of the credit  
2 may be applied against the taxpayer's corporate income tax  
3 liability for the taxable year in which the credit is  
4 approved. If the amount of the credit exceeds the taxpayer's  
5 corporate income tax liability for that taxable year, the  
6 excess may be carried forward for up to seven years.

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

17 M. For the purposes of this section:

18 (1) "build green New Mexico rating system"  
19 means the certification standards adopted by the homebuilders  
20 association of central New Mexico;

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

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

25 (4) "LEED-EB" means the LEED rating system

1 for existing buildings;

2 (5) "LEED gold" means the rating in  
3 compliance with, or exceeding, the second highest rating  
4 awarded by the LEED certification process;

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

9 (7) "LEED-H" means the LEED rating system  
10 for homes;

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

13 (9) "LEED platinum" means the rating in  
14 compliance with, or exceeding, the highest rating awarded by  
15 the LEED certification process;

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

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

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

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

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

4 (12) "sustainable building" means either a  
5 sustainable commercial building or a sustainable residential  
6 building;

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

10 (a) is certified by the United States  
11 green building council at LEED-Silver or higher;

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

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

1 design phase of development; and

2 (14) "sustainable residential building"

3 means:

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

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

18 (c) manufactured housing as defined by  
19 the United States department of housing and urban development  
20 that is ENERGY STAR-qualified by the United States  
21 environmental protection agency."

22 Section 5. A new section of the Income Tax Act is  
23 enacted to read:

24 "TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--

25 A. A taxpayer may claim a credit against the



1 taxpayer's income tax liability for expenses incurred by the  
2 taxpayer for eligible improvements in irrigation systems or  
3 water management methods. The credit may be claimed for the  
4 taxable year in which the expenses are incurred if the  
5 taxpayer:

6 (1) in that year, owned or leased a water  
7 right appurtenant to the land on which an eligible improvement  
8 was made;

9 (2) files an individual New Mexico income  
10 tax return for that year;

11 (3) in that year, is not a dependent of  
12 another individual; and

13 (4) does not take a tax credit for the same  
14 expense on any corporate tax return filed by the taxpayer.

15 B. The credit provided in this section shall be in  
16 the following amounts, not to exceed a maximum annual credit  
17 of ten thousand dollars (\$10,000):

18 (1) for expenses incurred from January 1,  
19 2008 until December 31, 2008, an amount equal to thirty-five  
20 percent of the incurred expenses; and

21 (2) for expenses incurred on or after  
22 January 1, 2009, an amount equal to fifty percent of the  
23 incurred expenses.

24 C. As used in this section, "eligible improvement  
25 in irrigation systems or water management methods" means an

1 improvement that is:

2 (1) made on or after January 1, 2008;

3 (2) consistent and complies with a water  
4 conservation plan approved by the local soil and water  
5 conservation district in which the improvement is located; and

6 (3) primarily designed to substantially  
7 conserve water on land in New Mexico that is owned or leased  
8 by the taxpayer and used by the taxpayer or the taxpayer's  
9 lessee to:

10 (a) produce agricultural products;

11 (b) harvest or grow trees; or

12 (c) sustain livestock.

13 D. Taxpayers who are considered for federal income  
14 tax purposes as co-owners of the land on which an eligible  
15 improvement in irrigation systems or water management methods  
16 is made may claim the pro rata share of the credit allowed  
17 pursuant to this section based on the co-owner's ownership  
18 interest. The total of the credits allowed all the taxpayers  
19 considered co-owners may not exceed the amount that would have  
20 been allowed a sole owner of the land.

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

25 F. If the allowable tax credit in a taxable year

1 exceeds the income taxes otherwise due from a taxpayer  
2 pursuant to the Income Tax Act, or if there are no income  
3 taxes due from the taxpayer, the taxpayer may carry forward  
4 the amount of the credit not used in that year to offset the  
5 taxpayer's liability for income taxes pursuant to the Income  
6 Tax Act for not more than five consecutive taxable years.

7 G. The New Mexico department of agriculture, with  
8 the advice of the soil and water conservation commission, and  
9 with information provided by the state engineer, shall  
10 promulgate rules to implement this section, and those rules  
11 shall include detailed guidelines to assist the department in  
12 determining whether improvements in irrigation systems or  
13 water management methods qualify for the credit available  
14 under this section.

15 H. A taxpayer claiming the credit shall provide  
16 documentary evidence of the amount of water conserved during  
17 the period for which the credit is claimed if requested by the  
18 department.

19 I. Water conserved due to improvements in  
20 irrigation systems or water management methods and for which a  
21 credit is claimed shall not be subject to abandonment or  
22 forfeiture, nor shall the conserved water be put to  
23 consumptive beneficial use.

24 J. As used in this section, "taxpayer" may include  
25 a partnership, limited liability corporation or other form of

1 pass-through entity, which may pass the credit provided in  
2 this section through to its owners in proportion to their  
3 share of ownership."

4 Section 6. A new section of the Corporate Income and  
5 Franchise Tax Act is enacted to read:

6 "TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--

7 A. A taxpayer may claim a credit against the  
8 taxpayer's corporate income tax liability for expenses  
9 incurred by the taxpayer for eligible improvements in  
10 irrigation systems or water management methods. The credit  
11 may be claimed for the taxable year in which the expenses are  
12 incurred if the taxpayer:

13 (1) in that year, owned or leased a water  
14 right appurtenant to the land on which an eligible improvement  
15 was made; and

16 (2) files a New Mexico corporate income tax  
17 return for that year.

18 B. The credit provided in this section shall be in  
19 the following amounts, not to exceed a maximum annual credit  
20 of ten thousand dollars (\$10,000):

21 (1) for expenses incurred from January 1,  
22 2008 until December 31, 2008, an amount equal to thirty-five  
23 percent of the incurred expenses; and

24 (2) for expenses incurred on or after  
25 January 1, 2009, an amount equal to fifty percent of the

1 incurred expenses.

2 C. As used in this section, "eligible improvement  
3 in irrigation systems or water management methods" means an  
4 improvement that is:

5 (1) made on or after January 1, 2008;

6 (2) consistent and complies with a water  
7 conservation plan approved by the local soil and water  
8 conservation district in which the improvement is located; and

9 (3) primarily designed to substantially  
10 conserve water on land in New Mexico that is owned or leased  
11 by the taxpayer and used by the taxpayer or the taxpayer's  
12 lessee to:

13 (a) produce agricultural products;

14 (b) harvest or grow trees; or

15 (c) sustain livestock.

16 D. Taxpayers that are considered for federal  
17 income tax purposes as co-owners of the land, or co-owners of  
18 a pass-through entity that owns the land, on which an eligible  
19 improvement in irrigation systems or water management methods  
20 is made may claim the pro rata share of the credit allowed  
21 pursuant to this section based on the co-owner's ownership  
22 interest. The total of the credits allowed all the taxpayers  
23 considered co-owners may not exceed the amount that would have  
24 been allowed a sole owner of the land.

25 E. If the allowable tax credit in a taxable year

1 exceeds the corporate income taxes otherwise due from a  
2 taxpayer pursuant to the Corporate Income and Franchise Tax  
3 Act, or if there are no taxes due pursuant to the Corporate  
4 Income and Franchise Tax Act, the taxpayer may carry forward  
5 the amount of the credit not used in that year to offset the  
6 taxpayer's liability for corporate income taxes pursuant to  
7 the Corporate Income and Franchise Tax Act for not more than  
8 five consecutive tax years.

9 F. The New Mexico department of agriculture, with  
10 the advice of the soil and water conservation commission and  
11 with information provided by the state engineer, shall  
12 promulgate rules to implement this section, including detailed  
13 guidelines to assist the department in determining whether  
14 improvements in irrigation systems or water management methods  
15 qualify for the credit available under this section.

16 G. A taxpayer claiming the credit shall provide  
17 documentary evidence of the amount of water conserved during  
18 the period for which the credit is claimed if requested by the  
19 department.

20 H. Water conserved due to improvements in  
21 irrigation systems or water management methods and for which a  
22 credit is claimed shall not be subject to abandonment or  
23 forfeiture, nor shall the conserved water be put to  
24 consumptive beneficial use.

25 I. As used in this section, "taxpayer" may include SB 463  
Page 46

1 a partnership, limited liability corporation or other form of  
2 pass-through entity, which may pass the credit provided in  
3 this section through to its owners in proportion to their  
4 share of ownership."

5 Section 7. A new section of the Income Tax Act is  
6 enacted to read:

7 "CREDIT--BLENDED BIODIESEL FUEL.--

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

20 (1) from January 1, 2007 until December 31,  
21 2010, at a rate of three cents (\$.03) per gallon;

22 (2) from January 1, 2011 until December 31,  
23 2011, at a rate of two cents (\$.02) per gallon; and

24 (3) from January 1, 2012 until December 31,  
25 2012, at a rate of one cent (\$.01) per gallon.

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

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

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

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



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

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

9 G. For the purposes of this section:

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

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

18 (3) "diesel fuel" means any diesel-engine  
19 fuel used for the generation of power to propel a motor  
20 vehicle."

21 Section 8. A new section of the Corporate Income and  
22 Franchise Tax Act is enacted to read:

23 "CREDIT--BLENDED BIODIESEL FUEL.--

24 A. A taxpayer that is liable for payment of the  
25 special fuel excise tax pursuant to Subsections A through D of SB 463  
Page 49

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

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

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

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

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

22 C. A taxpayer that otherwise qualifies for and  
23 claims a credit pursuant to this section for blended biodiesel  
24 fuel on which special fuel excise tax has been paid by a  
25 partnership or other business association of which the

1 taxpayer is a member may claim a credit only in proportion to  
2 the taxpayer's interest in the partnership or business  
3 association. The total credit claimed in the aggregate by all  
4 members of the partnership or business association shall not  
5 exceed the amount of credit allowed pursuant to Subsection A  
6 of this section.

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

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

21 F. For the purposes of this section:

22 (1) "biodiesel" means renewable,  
23 biodegradable, monoalkyl ester combustible liquid fuel that is  
24 derived from agricultural plant oils or animal fats and that  
25 meets American society for testing and materials D 6751

1 standard specification for biodiesel B100 blend stock for  
2 distillate fuels;

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

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

8 Section 9. A new section of the Gross Receipts and  
9 Compensating Tax Act is enacted to read:

10 "GROSS RECEIPTS TAX--COMPENSATING TAX--BIODIESEL  
11 BLENDING FACILITY TAX CREDIT.--

12 A. A taxpayer who is a rack operator as defined in  
13 the Special Fuels Supplier Tax Act and who installs biodiesel  
14 blending equipment in property owned by the taxpayer for the  
15 purpose of establishing or expanding a facility to produce  
16 blended biodiesel fuel is eligible to claim a credit against  
17 gross receipts tax or compensating tax. The credit shall be  
18 an amount equal to thirty percent of the purchase cost of the  
19 equipment plus thirty percent of the cost of installing that  
20 equipment. The credit provided by this section may be  
21 referred to as the "biodiesel blending facility tax credit".

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

25 C. Upon application from a taxpayer wishing to

1 claim the biodiesel blending facility tax credit, the energy,  
2 minerals and natural resources department shall determine if  
3 the equipment for which the tax credit will be claimed meets  
4 the requirements of this section and if purchase and  
5 installation costs reported by the taxpayer are legitimate.  
6 Upon these determinations being made in favor of the taxpayer,  
7 the energy, minerals and natural resources department shall  
8 issue a dated certificate of eligibility containing this  
9 information and an estimate of the amount of the biodiesel  
10 blending facility tax credit for which the taxpayer is  
11 eligible.

12 D. To claim the biodiesel blending facility tax  
13 credit, the taxpayer shall provide to the taxation and revenue  
14 department the certificate of eligibility from the energy,  
15 minerals and natural resources department. Upon receipt of  
16 the certificate, the taxation and revenue department shall  
17 approve the claim for the credit if the total cumulative  
18 amount of approved claims for the credit for all taxpayers for  
19 the calendar year does not exceed one million dollars  
20 (\$1,000,000). The department shall maintain a record of the  
21 cumulative amount of claims for the credit that have been  
22 approved and when it determines that this cumulative amount  
23 has reached one million dollars (\$1,000,000), it shall cease  
24 approving any additional claims for the biodiesel blending  
25 facility tax credit.

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

14           F. The tax credit provided by this section may  
15 only be applied against the taxpayer's gross receipts tax  
16 liability or compensating tax liability. If the credit  
17 exceeds the taxpayer's tax liability in the reporting period  
18 for which it is granted, the credit may be carried forward for  
19 four years from the date of the certificate of eligibility.

20           G. For the purposes of this section:

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

1 distillate fuels;

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

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

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

10 Section 10. A new section of the Gross Receipts and  
11 Compensating Tax Act is enacted to read:

12 "DEDUCTION--GROSS RECEIPTS--SOLAR ENERGY SYSTEMS.--

13 A. Receipts from the sale and installation of  
14 solar energy systems may be deducted from gross receipts.

15 B. As used in this section, "solar energy system"  
16 means an installation that is used to provide space heat, hot  
17 water or electricity to the property in which it is installed  
18 and is:

19 (1) an installation that utilizes solar  
20 panels that are not also windows, including the solar panels  
21 and all equipment necessary for the installation and operation  
22 of the solar panels;

23 (2) a dark-colored water tank exposed to  
24 sunlight, including all equipment necessary for the  
25 installation and operation of the water tank as a part of the

1 overall water system of the property; or

2 (3) a non-vented trombe wall, including all  
3 equipment necessary for the installation and operation of the  
4 trombe wall."

5 Section 11. SHORT TITLE.--Sections 11 through 18 of  
6 this act may be cited as the "Alternative Energy Product  
7 Manufacturers Tax Credit Act".

8 Section 12. DEFINITIONS.--As used in the Alternative  
9 Energy Product Manufacturers Tax Credit Act:

10 A. "alternative energy product" means an  
11 alternative energy vehicle, fuel cell system, renewable energy  
12 system or any component of an alternative energy vehicle, fuel  
13 cell system or renewable energy system or components for  
14 integrated gasification combined cycle coal facilities and  
15 equipment related to the sequestration of carbon from  
16 integrated gasification combined cycle plants;

17 B. "alternative energy vehicle" means a motor  
18 vehicle manufactured by an original equipment manufacturer  
19 that fully warrants and certifies that the motor vehicle meets  
20 the federal motor vehicle safety standards and is designed to  
21 be propelled in whole or in part by electricity; "alternative  
22 energy vehicle" includes a gasoline-electric hybrid motor  
23 vehicle exempt from the motor vehicle excise tax pursuant to  
24 Subsection F of Section 7-14-6 NMSA 1978;

25 C. "component" means a part, assembly of parts,



1 material, ingredient or supply that is incorporated directly  
2 into an end product;

3 D. "department" means the taxation and revenue  
4 department, the secretary of taxation and revenue or an  
5 employee of the department exercising authority lawfully  
6 delegated to that employee by the secretary;

7 E. "fuel cell system" means a system that converts  
8 hydrogen, natural gas or waste gas to electricity without  
9 combustion, including:

10 (1) a fuel cell or a system used to generate  
11 or reform hydrogen for use in a fuel cell; or

12 (2) a system used to generate or reform  
13 hydrogen for use in a fuel cell, including:

14 (a) electrolyzers that use renewable  
15 energy; and

16 (b) reformers that use natural gas as  
17 the feedstock;

18 F. "manufacturing" means combining or processing  
19 components or materials to increase their value for sale in  
20 the ordinary course of business, but does not include  
21 construction, farming, power generation or processing natural  
22 resources;

23 G. "manufacturing equipment" means an essential  
24 machine, mechanism or tool or a component of an essential  
25 machine, mechanism or tool used directly and exclusively in a

1 taxpayer's manufacturing operation and that is subject to  
2 depreciation pursuant to the Internal Revenue Code of 1986 by  
3 the taxpayer carrying on the manufacturing; provided that  
4 "manufacturing equipment" does not include a vehicle that  
5 leaves the site of a manufacturing operation for the purpose  
6 of transporting persons or property, including property for  
7 which the taxpayer claims a credit pursuant to Section 7-9-79  
8 NMSA 1978;

9 H. "manufacturing operation" means a plant  
10 employing personnel to perform production tasks, in  
11 conjunction with manufacturing equipment not previously  
12 existing at the site, to produce alternative energy products;

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

1           J. "pass-through entity" means a business  
2 association other than:

3                   (1) a sole proprietorship;  
4                   (2) an estate or trust;  
5                   (3) a corporation, limited liability  
6 company, partnership or other entity that is not a sole  
7 proprietorship taxed as a corporation for federal income tax  
8 purposes for the taxable year; or

9                   (4) a partnership that is organized as an  
10 investment partnership in which the partner's income is  
11 derived solely from interest, dividends and sales of  
12 securities;

13           K. "qualified expenditure" means an expenditure  
14 for the purchase of manufacturing equipment made after July 1,  
15 2006 by a taxpayer approved by the department;

16           L. "renewable energy" means energy from solar  
17 heat, solar light, wind, geothermal energy, landfill gas or  
18 biomass either singly or in combination that produces low or  
19 zero emissions and has substantial long-term production  
20 potential;

21           M. "renewable energy system" means a system using  
22 only renewable energy to produce hydrogen or to generate  
23 electricity, including related cogeneration systems that  
24 create mechanical energy or that produce heat or steam for  
25 space or water heating and agricultural or small industrial

1 processes and includes a:

- 2 (1) photovoltaic energy system;
- 3 (2) solar-thermal energy system;
- 4 (3) biomass energy system;
- 5 (4) wind energy system;
- 6 (5) hydrogen production system; or
- 7 (6) battery cell energy system; and

8 N. "taxpayer" means a person, including a  
9 shareholder, member, partner or other owner of a pass-through  
10 entity, who is liable for payment of a tax or to whom an  
11 assessment has been made, if the assessment remains unabated  
12 or the amount thereof has not been paid.

13 Section 13. ADMINISTRATION.--The department shall  
14 administer the Alternative Energy Product Manufacturers Tax  
15 Credit Act pursuant to the Tax Administration Act.

16 Section 14. ALTERNATIVE ENERGY PRODUCT MANUFACTURERS  
17 TAX CREDIT.--

18 A. A tax credit to be known as the "alternative  
19 energy product manufacturers tax credit" may be claimed by a  
20 taxpayer in an amount:

21 (1) for which the taxpayer has been granted  
22 approval by the department pursuant to the Alternative Energy  
23 Product Manufacturers Tax Credit Act; and

24 (2) not to exceed five percent of the  
25 taxpayer's qualified expenditures.

1           B. The alternative energy product manufacturers  
2 tax credit may only be deducted from the taxpayer's modified  
3 combined tax liability. Any portion of the alternative energy  
4 product manufacturers tax credit that remains unused at the  
5 end of the taxpayer's reporting period may be carried forward  
6 for five years.

7           Section 15. ELIGIBILITY REQUIREMENTS--EMPLOYMENT.--To  
8 be eligible to claim a credit pursuant to the Alternative  
9 Energy Product Manufacturers Tax Credit Act, the taxpayer  
10 shall employ a number of full-time employees equal to one  
11 full-time employee in addition to the number of full-time  
12 employees employed one year prior to the day on which the  
13 taxpayer applies for the credit for every:

14           A. five hundred thousand dollars (\$500,000), or a  
15 portion of that amount, of qualified expenditures claimed by  
16 the taxpayer in a taxable year in the same claim, up to a  
17 value of thirty million dollars (\$30,000,000); and

18           B. one million dollars (\$1,000,000), or a portion  
19 of that amount, in value of qualified expenditures over thirty  
20 million dollars (\$30,000,000) claimed by the taxpayer in a  
21 taxable year in the same claim.

22           Section 16. APPROVAL OF CREDIT--ISSUANCE AND DENIAL--  
23 APPLICATION--DEADLINES.--

24           A. The department shall issue or deny approval for  
25 an alternative energy product manufacturers tax credit in

1 response to a taxpayer's application for approval for the  
2 credit. The department shall issue approval for a credit  
3 claimed by a taxpayer who satisfies the requirements of the  
4 Alternative Energy Product Manufacturers Tax Credit Act.

5 B. The department may require a taxpayer who  
6 claims an alternative energy product manufacturers tax credit  
7 to produce evidence of the taxpayer's compliance with the  
8 Alternative Energy Product Manufacturers Tax Credit Act.

9 C. A taxpayer may apply for approval of an  
10 alternative energy product manufacturers tax credit on or  
11 before the last day of the year following the end of the  
12 calendar year in which the qualified expenditure is made. The  
13 department shall not issue approval for the alternative energy  
14 product manufacturers tax credit if the taxpayer applies for  
15 approval after the last day of the year following the end of  
16 the calendar year in which the qualified expenditure is made.

17 Section 17. RECAPTURE.--If the taxpayer or a successor  
18 in the business of the taxpayer ceases operations at a  
19 facility in New Mexico for at least one hundred eighty  
20 consecutive days within a two-year period after the taxpayer  
21 has claimed an alternative energy product manufacturers tax  
22 credit, the department shall not grant additional alternative  
23 energy product manufacturers tax credits with respect to that  
24 facility. Any amount of the approved credit with respect to  
25 that facility that is not claimed against the taxpayer's

1 modified combined tax liability shall be extinguished, and  
2 within thirty days after the one hundred eightieth day of  
3 cessation of operations, the taxpayer shall pay the modified  
4 income tax liability against which an approved credit was  
5 taken. For the purposes of this section, a taxpayer shall not  
6 be deemed to have ceased operations during reasonable periods  
7 for maintenance or retooling, for the repair or replacement of  
8 facilities damaged or destroyed or during labor disputes.

9 Section 18. CREDIT CLAIM FORMS.--The department shall  
10 provide credit claim forms and instructions. A credit claim  
11 form shall accompany any return in which the taxpayer claims a  
12 credit, and the claim shall specify the amount of credit  
13 intended to apply to each return.

14 Section 19. REPEAL.--Laws 2005, Chapter 104, Section 7  
15 is repealed.

16 Section 20. DELAYED REPEAL.--Sections 5 and 6 of this  
17 act are repealed effective January 1, 2013.

18 Section 21. APPLICABILITY.--

19 A. The provisions of Sections 1 and 2 of this act  
20 apply to taxable years beginning on or after January 1, 2008.

21 B. The provisions of Sections 3 and 4 of this act  
22 apply to taxable years beginning on or after January 1, 2007  
23 through December 31, 2013.

24 C. The provisions of Sections 5 and 6 of this act  
25 apply to taxable years beginning on or after January 1, 2008

1 and ending on or before December 31, 2012.

2 Section 22. CONTINUED APPLICABILITY OF TAX CREDIT.--The  
3 balance of a tax credit granted before December 31, 2012 to a  
4 taxpayer pursuant to Section 5 or 6 of this act may be applied  
5 after that date in the manner provided for in Section 5 or 6  
6 of this act against the taxpayer's personal or corporate  
7 income tax liability, as applicable as if the provisions of  
8 Sections 5 and 6 of this act were still in effect.

9 Section 23. EFFECTIVE DATE.--The effective date of the  
10 provisions of Sections 9 through 18 of this act is July 1,  
11 2007.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25