

AN ACT  
RELATING TO TAXATION; PROVIDING A RENEWABLE ENERGY PRODUCTION  
TAX CREDIT.

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

Section 1. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"RENEWABLE ENERGY PRODUCTION TAX CREDIT--LIMITATIONS--  
DEFINITIONS--CLAIMING THE CREDIT.--

A. A taxpayer that owns a qualified energy generator certified by the energy, minerals and natural resources department is eligible for a tax credit in an amount equal to one cent (\$.01) per kilowatt-hour for the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator using a qualified energy resource in the taxable year. A taxpayer shall be eligible for the tax credit for ten consecutive years, beginning on the date the qualified energy generator begins producing electricity. The tax credit provided in this section may be referred to as the "renewable energy production tax credit".

B. As used in this section:

(1) "qualified energy generator" means a facility with at least twenty megawatts generating capacity located in New Mexico that produces electricity using a

qualified energy resource and that sells that electricity to an unrelated person; and

(2) "qualified energy resource" means a resource that generates electrical energy by means of a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

- (a) solar light;
- (b) solar heat; or
- (c) wind.

C. A taxpayer may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the applicant is a qualified energy generator; provided that the department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified will not exceed eight hundred thousand megawatt-hours. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the applicant is an eligible

qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

D. To claim a renewable energy production tax credit, a taxpayer that has been certified as eligible pursuant to Subsection C of this section shall submit to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, documentation of the amount of electricity produced by the taxpayer's facility in the taxable year, and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

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

F. The renewable energy production tax credit may be deducted from the taxpayer's New Mexico corporate income

tax liability for the taxable year. If the amount of the tax credit claimed exceeds the taxpayer's corporate income tax liability, the excess may be carried forward for up to five consecutive taxable years."

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after July 1, 2002.\_\_\_\_\_