FORTY-EIGHTH LEGISLATURE
FIRST SESSION

March 2, 2007

SENATE FLOOR AMENDMENT number ___1___ to SENATE BILL 317, as amended

Amendment sponsored by Senator Timothy Z. Jennings

1. On page 1, line 15, before "RECONCILING" insert:

"ACCELERATING IMPLEMENTATION OF INCOME TAX RATE REDUCTIONS; PROVIDING AN INCOME TAX CREDIT FOR CONTRIBUTIONS MADE TO CERTAIN ORGANIZATIONS FOR TUITION SCHOLARSHIPS FOR STUDENTS IN NONGOVERNMENTAL SCHOOLS; PROVIDING A CREDIT IN THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT FOR AGRICULTURAL WATER CONSERVATION EXPENSES; 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 AN INCOME TAX EXEMPTION FOR SALARIES PAID FOR ACTIVE DUTY SERVICE IN THE ARMED FORCES OF THE UNITED STATES; PROVIDING A SUSTAINABLE BUILDING TAX CREDIT IN THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; PROVIDING AN INCOME TAX CREDIT FOR HOME SCHOOLING; PROVIDING AN INCOME TAX CREDIT FOR RURAL HEALTH CARE PRACTITIONERS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM SERVICES PROVIDED FOR THE OPERATIONALLY RESPONSIVE SPACE PROGRAM; EXTENDING THE DEADLINE BY WHICH A TRADE SUPPORT COMPANY MUST LOCATE IN NEW MEXICO TO BE ELIGIBLE FOR GROSS RECEIPTS TAX DEDUCTIONS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN RECEIPTS OF AIRCRAFT MANUFACTURERS; PROVIDING A PHASED-IN CREDIT FOR THE STATE PORTION OF GROSS RECEIPTS TAX FOR CERTAIN HOSPITALS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM CERTAIN MILITARY CONTRACTS TO IMPLEMENT MISSION TRANSITION PROJECTS; PROVIDING AN EXEMPTION FROM GROSS RECEIPTS TAX FOR DISABLED STREET VENDORS; PROVIDING FOR INCREASED TAX CREDITS PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT AND ADDING ELIGIBILITY REQUIREMENTS AND INCREASING THE AMOUNT OF COSTS THAT MAY BE CLAIMED AS QUALIFIED EXPENDITURES; PROVIDING FOR COORDINATION OF EFFORTS BETWEEN NATIONAL LABORATORIES

PROVIDING SMALL BUSINESS ASSISTANCE PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT AND PROVIDING REPORTING REQUIREMENTS FOR THOSE NATIONAL LABORATORIES; INCREASING THE RATE OF THE TOBACCO PRODUCTS TAX; REVISING TAX INCENTIVES FOR HEALTH INSURERS THAT ARE ASSESSED PURSUANT TO THE MEDICAL INSURANCE POOL ACT;".

2. On page 1, line 16, before the period insert "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".

3. On page 1, between lines 18 and 19, insert the following new section:

"Section 1. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION SUSPENSE FUND--CREDIT FOR RECEIPTS OF HOSPITALS.--Distributions from the tax administration suspense fund to the general fund of net receipts attributable to the gross receipts tax shall be adjusted for the full cost of credits issued pursuant to the Gross Receipts and Compensating Tax Act for receipts of hospitals licensed by the department of health."".

4. Renumber the succeeding sections accordingly.

5. On page 10, between lines 18 and 19, insert the following new section:

"Section 3. Section 7-2-7 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter 3, Section 2) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. [NEW MATERIAL] INDIVIDUAL INCOME TAX RATES.--The tax

imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for a taxable year beginning on or after January 1, 2007:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over $4,000	1.7% of taxable income
Over $ 4,000 but not over $ 8,000	$ 68.00 plus 3.2% of excess over $ 4,000
Over $ 8,000 but not over $ 12,000	$ 196 plus 4.7% of excess over $ 8,000
Over $ 12,000	$ 384 plus 4.9% of excess over $ 12,000.

B. For heads of household, surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over $8,000	1.7% of taxable income
Over $ 8,000 but not over $ 16,000	$ 136 plus 3.2% of excess over $ 8,000
Over $ 16,000 but not over $ 24,000	$ 392 plus 4.7% of excess over $ 16,000
Over $ 24,000	$ 768 plus 4.9% of excess over $ 24,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over $5,500	1.7% of taxable income
Over $ 5,500 but not over $ 11,000	$ 93.50 plus 3.2% of excess over $ 5,500
Over $ 11,000 but not over $ 16,000	$ 269.50 plus 4.7% of

	excess over $ 11,000
Over $ 16,000	$ 504.50 plus 4.9% of excess over $ 16,000.

D. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."".

6. Renumber the succeeding sections accordingly.

7. On page 15, strike lines 5 and 6 and insert in lieu thereof:

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

"[NEW MATERIAL] TUITION SCHOLARSHIP TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a school tuition organization if a receipt has been received from the organization certifying that the contribution will be used for educational scholarships or tuition grants for one or more children. The credit may be claimed in an amount equal to the total contributions made during the taxable year for which the credit is claimed but shall not exceed five hundred dollars ($500) in any taxable year. The credit provided in this subsection shall be known as the "tuition scholarship tax credit".

B. The tuition scholarship tax credit shall not be allowed for a contribution that is included in the taxpayer's itemized deductions, as defined in Section 63 of the Internal Revenue Code, for the taxable year.

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

D. The tuition scholarship tax credit provided in this section may only be deducted from the taxpayer's New Mexico income tax liability for the taxable year in which the contribution is made.

E. The department shall provide a format for a standardized receipt to be issued by a school tuition organization to indicate the tuition scholarship tax credit value of a contribution to the school tuition organization. The department may require a taxpayer claiming the tuition scholarship tax credit to submit a copy of the receipt with the taxpayer's claim for the credit.

F. As used in this section:

(1) "qualified school" means an accredited nongovernmental elementary or secondary school in New Mexico;

(2) "school tuition organization" means an organization that:

(a) demonstrates to the department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

(b) provides financial assistance for the education of children in the form of educational scholarships or tuition grants to students allowing them to attend any qualified school of their parents' choice; and

(c) expends at least ninety percent of its tax-credit-qualifying revenues for educational scholarships or tuition grants for children enrolled in a qualified school and provides seventy-five percent of its educational scholarships or tuition grants to children who qualify for the federal free or reduced-price school meal program at the time of initial application for the scholarship or tuition grant; and

(3) "tax-credit-qualifying revenue" means a contribution to a school tuition organization for which a receipt pursuant to Subsection E of this section has been issued by the organization to the donor of the contribution."

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

"[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--

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

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

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

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

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

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

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

(2) for expenses incurred from January 1, 2009 until December 31, 2009, an amount equal to fifty-five percent of the incurred expenses; and

(3) for expenses incurred on or after January 1, 2010, seventy-five percent of the incurred expenses.

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

(1) made after January 1, 2008;

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

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

(a) produce agricultural products;

(b) harvest or grow trees; or

(c) sustain livestock.

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

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

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

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

H. A taxpayer claiming the credit shall provide documentary evidence of the amount of water conserved during the

period for which the credit is claimed if requested by the department.

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

J. As used in this section, "taxpayer" may include a partnership, limited liability corporation or other form of pass-through entity, which may pass the credit provided in this section through to its owners in proportion to their share of ownership."

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

"[NEW MATERIAL] RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. A taxpayer eligible for a renewable energy production

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

F. As used in this section:

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

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

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

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

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

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

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during

the wastewater treatment process; and

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

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

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

(c) wind; or

(d) biomass.

G. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond 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 facility is a qualified energy generator. The energy, minerals and natural resources 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 pursuant to this section and pursuant to Section 7-2A-19 NMSA 1978 will not exceed a total of two million megawatt-hours plus

an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. 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 facility 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 and shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

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

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

(2) the business entity:

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

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

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

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

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

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

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

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

K. A taxpayer may claim the renewable energy production

tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection G or H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the 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.

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

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

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

M. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's 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."

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

"[NEW MATERIAL] EXEMPTION--ARMED FORCES SALARIES.--A salary paid by the United States to a taxpayer for active duty service in

the armed forces of the United States is exempt from state income taxation."

Section 9. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] SUSTAINABLE BUILDING TAX CREDIT.--

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

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

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

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

C. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable commercial building shall be calculated based on the certification level the building has achieved in the LEED green building rating system and

the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	$3.50
	Next 40,000	$1.75
	Over 50,000 up to 500,000	$ .70
LEED-NC Gold	First 10,000	$4.75
	Next 40,000	$2.00
	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
	Next 40,000	$2.30
	Over 50,000	

	up to 500,000	$1.40
LEED-CI Silver	First 10,000	$1.40
	Next 40,000	$ .70
	Over 50,000	
	up to 500,000	$ .30
LEED-CI Gold	First 10,000	$1.90
	Next 40,000	$ .80
	Over 50,000	
	up to 500,000	$ .40
LEED-CI Platinum	First 10,000	$2.50
	Next 40,000	$1.30
	Over 50,000	
	up to 500,000	$ .80.

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

Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
Build Green NM Gold	First 2,000	$4.50
	Next 1,000	$2.00
LEED-H Silver	First 2,000	$5.00
	Next 1,000	$2.50
LEED-H Gold	First 2,000	$6.85

	Next 1,000	$3.40
LEED-H Platinum	First 2,000	$9.00
	Next 1,000	$4.45
EPA ENERGY STAR Manufactured Housing	Up to 3,000	$3.00.

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

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

of five million dollars ($5,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars ($1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing.

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

H. To be eligible for the sustainable building tax credit, the taxpayer must provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection E of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

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

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

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

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

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

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

N. For the purposes of this section:

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

of central New Mexico;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) "sustainable residential building" means:

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

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

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

Section 10. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--HOME SCHOOL.--

A. A resident who files an individual New Mexico income tax return and is not a dependent of another taxpayer may claim a credit in the amount of one hundred seventy-five dollars ($175) for each dependent of the resident who:

(1) was home schooled, as that term is defined in the Public School Code, during the school year that ended during the taxable year; and

(2) was claimed as a dependent on the resident's federal income tax return or, if the resident did not file a federal return, would have been entitled to be claimed as a dependent on the resident's federal return.

B. The credit provided in this section may be deducted from the resident's income tax liability for the taxable year. If the credit exceeds the resident's income tax liability, the excess shall be refunded.

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

D. To claim the credit provided in this section, the resident shall attach to the resident's New Mexico income tax return a copy of the resident's notification submitted pursuant to Section 22-1-2.1 NMSA 1978.

E. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

Section 11. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] TAX CREDIT--RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care

services in New Mexico in a rural health care underserved area in a taxable year, may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

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

C. To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during a taxable year for at least two thousand eighty hours at a practice site located in an approved, rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least one thousand forty hours but less than two thousand eighty hours at a practice site located in an approved rural health care underserved area during a taxable year is eligible for one-half of the credit amount.

D. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit, and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are

issued.

E. A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.

F. As used in this section:

(1) "eligible health care practitioner" means:

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

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

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

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

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

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

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

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

(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;

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

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

Section 12. 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.--

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

claimed.

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

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

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

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

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

(1) one and one-half cents ($.015) per kilowatt-

hour in the first taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

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

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

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

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

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

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

(8) three cents ($.03) per kilowatt-hour in the eighth taxable year in which the qualified energy generator

produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

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

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

[~~D.~~] E. A taxpayer eligible for a renewable energy production tax credit pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credit for ten consecutive years, beginning on the date the qualified energy generator begins producing electricity.

[~~E.~~] F. As used in this section:

(1) "biomass" means [~~agricultural or animal waste; thinnings from trees less than fifteen inches in diameter, slash and brush; lumbermill or sawmill residues; and salt cedar and other phreatophytes removed from watersheds or river basins~~] organic material that is available on a renewable or recurring basis, including:

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

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

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

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

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

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

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

(2) "qualified energy generator" means a facility with at least [~~ten megawatts~~] one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and that sells that electricity to an unrelated person; and

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

(c) wind; or

(d) biomass.

[~~F.~~] G. A person that holds title to a facility generating electricity from a qualified energy resource or [~~one~~] a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond 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 facility is a qualified energy generator. [~~provided that~~] The energy, minerals and natural resources 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 pursuant to this section and pursuant to the Income Tax Act will not exceed a total of two million megawatt-hours plus an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. 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 facility 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 and shall report annually to the appropriate interim legislative committee

information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

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

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

(2) the business entity:

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

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

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

(3) the taxpayer and all other taxpayers allocated a right to claim the renewable energy production tax credit pursuant to this subsection own collectively at least a

five percent interest in a qualified energy generator;

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

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

[~~H.~~] I. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credit, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

[~~I.~~] J. A taxpayer may claim the renewable energy production tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection [~~F~~] G or [~~G~~] H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the 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.

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

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

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

[~~J.~~] L. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's 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.

[~~K. The renewable energy production tax credit may be deducted from the taxpayer's New Mexico corporate income tax liability for a 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 13. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--

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

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

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

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

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

(2) for expenses incurred from January 1, 2009 until December 31, 2009, an amount equal to fifty-five percent of the incurred expenses; and

(3) for expenses incurred on or after January 1, 2010, seventy-five percent of the incurred expenses.

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

(1) made after January 1, 2008;

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

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

(a) produce agricultural products;

(b) harvest or grow trees; or

(c) sustain livestock.

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

E. If the allowable tax credit in a taxable year exceeds the corporate income taxes otherwise due from a taxpayer pursuant to the Corporate Income and Franchise Tax Act, or if there are no taxes due pursuant to the Corporate Income and Franchise Tax Act, the taxpayer may carry forward the amount of the credit not used in that year to offset the taxpayer's liability for corporate income taxes pursuant to the Corporate Income and Franchise Tax Act for not more than five consecutive tax years.

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

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

H. Water conserved due to improvements in irrigation

systems or water management methods and for which a credit is claimed shall not be subject to abandonment or forfeiture, nor shall the conserved water be put to consumptive beneficial use.

I. As used in this section, "taxpayer" may include a partnership, limited liability corporation or other form of pass-through entity, which may pass the credit provided in this section through to its owners in proportion to their share of ownership."

Section 14. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building or the renovation of an existing building in New Mexico into a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Income Tax Act has been claimed.

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

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

(2) the subsequent purchaser of a sustainable building with respect to which no tax credit has been previously claimed, if the certification level for the building in the LEED

green building rating system or the build green New Mexico rating system is awarded on or after January 1, 2007.

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

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	$3.50
	Next 40,000	$1.75
	Over 50,000 up to 500,000	$.70
LEED-NC Gold	First 10,000	$4.75
	Next 40,000	$2.00
	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
	Next 40,000	$2.30
	Over 50,000 up to 500,000	$1.40
LEED-CI Silver	First 10,000	$1.40
	Next 40,000	$ .70
	Over 50,000 up to 500,000	$ .30
LEED-CI Gold	First 10,000	$1.90
	Next 40,000	$ .80
	Over 50,000 up to 500,000	$.40
LEED-CI Platinum	First 10,000	$2.50
	Next 40,000	$1.30
	Over 50,000 up to 500,000	$.80.

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

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

Build Green NM Gold	First 2,000	$4.50
	Next 1,000	$2.00
LEED-H Silver	First 2,000	$5.00
	Next 1,000	$2.50
LEED-H Gold	First 2,000	$6.85
	Next 1,000	$3.40
LEED-H Platinum	First 2,000	$9.00
	Next 1,000	$4.45
EPA ENERGY STAR Manufactured Housing	Up to 3,000	$3.00.

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

F. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of five million dollars ($5,000,000) with respect to sustainable commercial buildings and an aggregate amount of five million dollars ($5,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars ($1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing.

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

H. To be eligible for the sustainable building tax credit, the taxpayer must provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection E of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

I. If the requirements of this section have been complied with, the department shall issue to the applicant a document granting a sustainable building tax credit. The document shall be numbered for identification and declare its date of

issuance and the amount of the tax credit allowed pursuant to this section. The document may be sold, exchanged or otherwise transferred. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

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

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

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

M. For the purposes of this section:

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

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

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

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

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

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

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

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

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

(10) "LEED silver" means the rating in compliance with, or exceeding, the third highest rating awarded by

the LEED certification process;

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

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

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

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

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

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

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

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

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

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

(14) "sustainable residential building" means:

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

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

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

Section 15. Section 7-9-54.2 NMSA 1978 (being Laws 1995, Chapter 183, Section 2, as amended) is amended to read:

"7-9-54.2. GROSS RECEIPTS--DEDUCTION--SPACEPORT OPERATION--SPACE OPERATIONS--LAUNCHING, OPERATING AND RECOVERING SPACE VEHICLES OR PAYLOADS--PAYLOAD SERVICES--<u>OPERATIONALLY RESPONSIVE SPACE PROGRAM SERVICES</u>.--

A. Receipts from launching, operating or recovering space vehicles or payloads in New Mexico may be deducted from gross receipts.

B. Receipts from preparing a payload in New Mexico are deductible from gross receipts.

C. Receipts from operating a spaceport in New Mexico are deductible from gross receipts.

D. Receipts from the provision of research, development, testing and evaluation services for the United States air force operationally responsive space program may be deducted from gross receipts.

[~~D.~~] E. As used in this section:

(1) "operationally responsive space program" means a program authorized pursuant to 10 U.S.C. 2273a;

[~~(1)~~] (2) "payload" means a system, subsystem or other mechanical structure or material to be conveyed into space that is designed, constructed or intended to perform a function in space;

[~~(2)~~] (3) "space" means any location beyond altitudes of sixty thousand feet above the earth's mean sea level;

[~~(3)~~] (4) "space operations" means the process of commanding and controlling payloads in space; and

[~~(4)~~] (5) "spaceport" means an installation and related facilities used for the launching, landing, operating, recovering, servicing and monitoring of vehicles capable of entering or returning from space.

[~~E.~~] F. Receipts from the sale of tangible personal property that will become an ingredient or component part of a construction project or from performing construction services may not be deducted under this section."

Section 16. Section 7-9-56.3 NMSA 1978 (being Laws 2003, Chapter 232, Section 1) is amended to read:

"7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT COMPANY IN A BORDER ZONE.--

A. The receipts of a trade-support company may be deducted from gross receipts if:

(1) the trade-support company first locates in New Mexico within twenty miles of a port of entry on New Mexico's border with Mexico on or after July 1, 2003 but before [~~July 1, 2008~~] July 1, 2013;

(2) the receipts are received by the company within a five-year period beginning on the date the trade-support company locates in New Mexico and the receipts are derived from its business activities and operations at its border zone location; and

(3) the trade-support company employs at least two employees in New Mexico.

B. As used in this section:

(1) "employee" means an individual, other than an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an

individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

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

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

(2) "port of entry" means an international port of entry in New Mexico at which customs services are provided by [~~the~~] United States customs [~~service~~] and border protection; and

(3) "trade-support company" means a customs brokerage firm or a freight forwarder."

Section 17. Section 7-9-62 NMSA 1978 (being Laws 1969, Chapter 144, Section 52, as amended) is amended to read:

"7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED.--

A. Except for receipts deductible under Subsection B of this section, fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from gross receipts; provided that, with respect to agricultural implements, the sale is made to a person who states in writing that the person is regularly engaged in the business of farming or ranching. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

B. Receipts of an aircraft manufacturer or affiliate from selling aircraft or aircraft parts or from selling services performed on aircraft or aircraft components or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

C. As used in this section:

(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the aircraft manufacturer;

(2) "agricultural implement" means a tool, utensil or instrument that is:

[~~(1)~~] (a) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural produce at the place where the produce is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose; and

[~~(2)~~] (b) depreciable for federal income tax purposes;

(3) "aircraft manufacturer" means a business entity that in the ordinary course of business designs and builds private or commercial aircraft certified by the federal aviation administration;

(4) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture;

(5) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; and

(b) has a value equal to at least fifty percent of the total equity of that business entity; and

(6) "flight support" means providing navigation data, charts, weather information, online maintenance records and other aircraft or flight-related information and the software needed to access the information."

Section 18. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF CERTAIN HOSPITALS.--

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

(1) for a hospital located in a municipality:

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

(b) on or after July 1, 2008 but before July 1, 2009, in an amount equal to one and fifty-one hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

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

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

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

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

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to one percent of the hospital's taxable gross receipts for that reporting period after all

applicable deductions have been taken;

(b) on or after July 1, 2008, but before July 1, 2009, in an amount equal to two percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

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

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

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

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

Section 19. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--MILITARY CONSTRUCTION SERVICES.--

A. Receipts from military construction services

provided at a New Mexico military installations to implement special operations mission transition projects pursuant to contracts entered into with the United States department of defense may be deducted from gross receipts; provided that the military installation is located in a class B county with a population greater than forty-two thousand according to the most recent federal decennial census and with a net taxable value for rate-setting purposes of less than one billion dollars ($1,000,000,000) as determined by the local government division of the department of finance and administration for the 2006 property tax year.

B. The deduction provided in this section applies to reporting periods beginning July 1, 2007 and ending December 31, 2010."

Section 20. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] EXEMPTION--RECEIPTS FROM SALES BY DISABLED STREET VENDORS.--

A. Exempt from payment of the gross receipts tax are receipts from the sale of goods by a disabled street vendor.

B. As used in this section:

(1) "disabled" means to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or to have a permanent total disability pursuant to the Workers' Compensation Act; and

(2) "street vendor" means a person licensed by a local government to sell items of tangible personal property by newly setting up a sales site daily or selling the items from a

moveable cart, tray, blanket or other device."

Section 21. Section 7-9E-1 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 1) is amended to read:

"7-9E-1. SHORT TITLE.--[~~This act~~] Chapter 7, Article 9E NMSA 1978 may be cited as the "Laboratory Partnership with Small Business Tax Credit Act"."

Section 22. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 3) is amended to read:

"7-9E-3. DEFINITIONS.--As used in the Laboratory Partnership with Small Business Tax Credit Act:

A. "contractor":

(1) means [~~an entity~~] a person that:

(a) has the capability to provide small business assistance; and

(b) may enter into a contract with a national laboratory to provide small business assistance; and [~~is~~

~~(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any~~]

(2) includes:

(a) a gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

[~~(2) any~~] (b) a national, federal, state, Indian or other governmental unit or subdivision, or [~~any~~] an agency, department or instrumentality of any of the foregoing;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or [~~any~~] an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "national laboratory" means a prime contractor designated as a national laboratory by act of congress that is operating a facility in New Mexico;

D. "qualified expenditure" means an expenditure by a national laboratory in providing small business assistance, limited to the following expenditures incurred in providing the assistance:

(1) employee salaries [~~and~~], wages, fringe benefits and employer payroll taxes;

(2) [~~fringe benefits, employer payroll taxes and other~~] administrative costs related directly to the provision of small business assistance, the total of which is limited to forty-nine percent of employee salaries [~~and~~], wages, fringe benefits and employer payroll taxes;

(3) in-state travel expenses, including per diem and mileage at the internal revenue service standard rates; and

(4) supplies and services of contractors related to the provision of small business assistance;

E. "rural area" means [~~any~~] an area of the state [~~other than~~] outside of the exterior boundaries of a class A county that has a net taxable value for rate-setting purposes for

any property tax year of more than seven billion dollars ($7,000,000,000);

F. "small business" means a business in New Mexico that conforms to the definition of small business found in the federal Small Business Act [~~(Public Law 85-536), as amended~~]; and

G. "small business assistance" means assistance rendered by a national laboratory related to the transfer of technology, including software [~~and~~], manufacturing, mining, oil and gas, environmental, agricultural, information and solar and other alternative energy source technologies. "Small business assistance" [~~also~~] includes nontechnical assistance related to expanding the New Mexico base of suppliers, including training and mentoring individual small businesses; assistance in developing business systems to meet audit, reporting and quality [~~assistance~~] assurance requirements; and other supplier development initiatives for individual small businesses."

Section 23. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 5) is amended to read:

"7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory is eligible for a tax credit in an amount equal to qualified expenditures if:

A. the small business assistance is rendered to a small business located in New Mexico;

B. the small business assistance is completed; [~~and~~]

C. the small business certifies to the national laboratory that the small business assistance provided is not otherwise available to the small business at a reasonable cost through private industry;

D. the national laboratory provides written notice to each small business to which it is providing small business assistance of the option that the small business has to obtain ownership of or license to tangible or intangible property developed from the small business assistance;

E. the national laboratory requires small businesses to which it is providing small business assistance to acknowledge only after the small business assistance is completed that the small business assistance has been rendered; and

F. the national laboratory provides forms for small business requests and for completion of small business assistance that are in accordance with the Laboratory Partnership with Small Business Tax Credit Act and other applicable state and federal laws."

Section 24. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 7) is amended to read:

"7-9E-7. TAX CREDITS--AMOUNTS.--[~~Each~~] A tax credit provided [~~for~~] pursuant to the Laboratory Partnership with Small Business Tax Credit Act shall be in an amount equal to the qualified expenditure incurred by the national laboratory to provide small business assistance to a specific small business, not to exceed [~~five thousand dollars ($5,000)~~] ten thousand dollars ($10,000) for each small business located outside of a rural area for which small business assistance is rendered in a calendar year or [~~ten thousand dollars ($10,000)~~] twenty thousand dollars ($20,000) if the small business assistance was provided to a small business located in a rural area."

Section 25. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 8) is amended to read:

"7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

A. A national laboratory eligible for the tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act may claim the amount of each tax credit by crediting that amount against gross receipts taxes otherwise due pursuant to the Gross Receipts and Compensating Tax Act. The tax credit shall be taken on each monthly gross receipts tax return filed by the laboratory against gross receipts taxes due the state and shall not impact any local government tax distribution. In no event shall the tax credits taken by an individual national laboratory exceed [~~one million eight hundred thousand dollars ($1,800,000)~~] two million four hundred thousand dollars ($2,400,000) in a given calendar year.

B. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business not located in a rural area shall not exceed ten thousand dollars ($10,000).

C. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business located in a rural area shall not exceed twenty thousand dollars ($20,000)."

Section 26. A new section of the Laboratory Partnership with Small Business Tax Credit Act is enacted to read:

"[NEW MATERIAL] COORDINATION BETWEEN NATIONAL LABORATORIES.--If more than one national laboratory is eligible for a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act, a national laboratory shall not file a tax credit claim pursuant to the Laboratory Partnership with Small Business Tax Credit Act until:

A. coordination is developed between the national

laboratories providing small business assistance pursuant to the Laboratory Partnership with Small Business Tax Credit Act that generates a joint small business assistance operational plan and a plan to ensure that the small business assistance provided by a national laboratory suits the small business's needs and challenges; and

B. a written copy of each plan formed pursuant to this section is provided to the department."

Section 27. A new section of the Laboratory Partnership with Small Business Tax Credit Act is enacted to read:

"[NEW MATERIAL] REPORTING.--

A. By October 15 of each year, a national laboratory that has claimed a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the previous calendar year shall submit an annual report in writing to the department, the economic development department and an appropriate legislative interim committee.

B. If more than one national laboratory claims a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the previous calendar year, those laboratories shall jointly submit an annual report to the department, the economic development department and an appropriate legislative interim committee no later than October 15 following the calendar year in which the small business assistance was provided.

C. An annual report shall summarize activities related to and the results of the small business assistance programs that were provided by one or more national laboratories and shall include:

(1) a summary of the program results and the

number of small businesses assisted in each county;

(2) a description of the projects involving multiple small businesses;

(3) results of surveys of small businesses to which small business assistance is provided;

(4) the total amount of the tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the year on which the report is based; and

(5) an economic impact study of jobs created, jobs retained, cost savings and increased sales generated by small businesses for which small business assistance is provided.

D. At any time after receipt of an annual report required pursuant to this section from one or more national laboratories eligible for tax credits authorized pursuant to the Laboratory Partnership with Small Business Tax Credit Act, the department or the economic development department may provide written instructions to a national laboratory identifying future improvements in the laboratory's small business assistance program for which it receives that tax credit."

Section 28. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

A. For the manufacture or acquisition of tobacco products in New Mexico for sale in the ordinary course of business, there is imposed an excise tax at the rate of [~~twenty-five~~] forty percent of the product value of the tobacco products.

B. The tax imposed by Subsection A of this section may be referred to as the "tobacco products tax".

C. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

Section 29. Section 59A-54-10 NMSA 1978 (being Laws 1989, Chapter 154, Section 10, as amended by Laws 2005, Chapter 301, Section 5 and by Laws 2005, Chapter 305, Section 5) is amended to read:

"59A-54-10. ASSESSMENTS.--

A. Following the close of each fiscal year, the pool administrator shall determine the net premium, being premiums less administrative expense allowances, the pool expenses and claim expense losses for the year, taking into account investment income and other appropriate gains and losses. The assessment for each insurer shall be determined by multiplying the total cost of pool operation by a fraction, the numerator of which equals that insurer's premium and subscriber contract charges or their equivalent for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state; provided that premium income shall include receipts of medicaid managed care premiums but shall not include any payments by the secretary of health and human services pursuant to a contract issued under Section 1876 of the Social Security Act, as amended. The board may adopt other or additional methods of adjusting the formula to achieve equity of assessments among pool members, including assessment of health insurers and reinsurers based upon the number of persons they cover through primary, excess and stop-loss insurance in the state.

B. If assessments exceed actual losses and

administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

C. The proportion of participation of each member in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed with it by the member. Any deficit incurred by the pool shall be recouped by assessments apportioned among the members of the pool pursuant to the assessment formula provided by Subsection A of this section; provided that the assessment for any pool member shall be allowed as a [~~thirty-percent~~] fifty-percent credit on the premium tax return for that member and a [~~fifty-percent~~] seventy-five-percent credit on the premium tax return for [~~a~~] that member [~~on the low-income premium schedule pursuant to Subsection B of Section 59A-54-19 NMSA 1978~~] for the assessments attributable to pool policy holders that receive premiums, in whole or in part, through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance.

D. The board may abate or defer, in whole or in part, the assessment of a member of the pool if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligation. In the event an assessment against a member of the pool is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the pool for the deficiency for four years."

Section 30. TEMPORARY PROVISION.--The repeal of Laws 2005 (1st S.S.), Chapter 3, Section 2 by Section 3 of this act does not affect the individual income tax rates imposed by that section for any taxable year beginning in 2006.

Section 31. REPEAL.--Laws 2005, Chapter 104, Sections 4 and 7 are repealed.

Section 32. DELAYED REPEAL.--Sections 6 and 13 of this act are repealed effective January 1, 2013. Section 33 of this act is repealed effective January 1, 2017.

Section 33. [NEW MATERIAL] CONTINUED APPLICABILITY OF TAX CREDIT.--The balance of a tax credit granted before December 31, 2012 to a taxpayer pursuant to Section 6 or 13 of this act may be applied after that date in the manner provided for in Section 6 or 13 of this act against the taxpayer's personal or corporate income tax liability, as applicable, as if the provisions of Sections 6 and 13 of this act were still in effect.

Section 34. APPLICABILITY.--

A. The provisions of Sections 4, 5, 8, 10 and 11 of this act apply to taxable years beginning on or after January 1, 2007.

B. The provisions of Sections 9 and 14 of this act apply to taxable years beginning on or after January 1, 2007 through December 31, 2013.

C. The provisions of Sections 7 and 12 of this act apply to taxable years beginning on or after January 1, 2008.

D. The provisions of Sections 6 and 13 of this act apply to taxable years beginning on or after January 1, 2008 and ending on or before December 31, 2012.

E. The provisions of Section 18 of this act apply to reporting periods beginning on or after July 1, 2007.

F. The premium tax credit in Section 29 of this act shall apply to assessments made pursuant to the Medical Insurance Pool Act beginning on or after July 1, 2007.

Section 35. EFFECTIVE DATE.--The effective date of the provisions of Sections 15, 17, 19, 20 and 22 through 28 of this act is July 1, 2007.".

_____
Timothy Z. Jennings

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____