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**HOUSE BILL 124**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Roberto "Bobby" J. Gonzales**

**AN ACT**

**RELATING TO THE CONSERVATION OF NATURAL RESOURCES; ENACTING THE SUSTAINABLE DEVELOPMENT TESTING SITE ACT; PROVIDING FOR THE APPROVAL OF AREAS TO BE USED FOR NON-INDUSTRIAL RESEARCH AND TESTING DESIGNED TO REDUCE THE CONSUMPTION OF AND DEPENDENCE ON NATURAL RESOURCES; PROVIDING THAT CERTAIN RESEARCH ACTIVITIES WITHIN AN APPROVED AREA ARE EXEMPT FROM SPECIFIED LAWS, ORDINANCES AND RULES.**

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

**Section 1. SHORT TITLE. -- This act may be cited as the "Sustainable Development Testing Site Act".**

**Section 2. FINDINGS AND PURPOSE. --**

**A. The legislature finds that:**

**(1) the increase in populations and the corresponding decrease in natural resources have created a**

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1 critical need for more sustainable and environmentally  
2 appropriate means of supporting human habitat;

3 (2) existing laws, ordinances and rules  
4 protect the public and the environment by regulating  
5 conventional residential construction and development and  
6 encourage private developers to produce "more of the same"  
7 nonsustainable conventional dwellings and systems because there  
8 are fewer barriers between the developers and their profits;

9 (3) history has shown that new and  
10 unconventional theories and inventions must be tested to the  
11 point of failure in a research environment free of constraints;

12 (4) the existing regulatory framework inhibits  
13 needed new ideas, concepts and inventions that could lead to  
14 long-term environmental stability;

15 (5) if private developers in New Mexico are  
16 encouraged to create and develop new ideas, concepts and  
17 inventions, New Mexico can lead the country and the world in  
18 the evolution of more appropriate methods of living for the  
19 future; and

20 (6) without relaxing existing regulation of  
21 conventional residential development and while ensuring that  
22 permanent environmental damage will be avoided, a procedure can  
23 be established whereby certain areas can be permitted as test  
24 sites to allow specifically designated research to be performed  
25 free of conventional regulations that sometimes, by their very

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1 nature, prevent radically new and different concepts from  
2 emerging.

3 B. The purpose of the Sustainable Development  
4 Testing Site Act is to allow counties, after review by  
5 appropriate state agencies, to permit specific rural areas as  
6 "sustainable development testing sites" in which concepts and  
7 inventions related to residential sustainable development,  
8 including energy, housing, water harvesting, sewage treatment,  
9 food production and bio-fuel production can be tested to the  
10 point of failure under conditions involving real people  
11 inhabiting the site after signing releases of liability.

12 Section 3. DEFINITIONS.--As used in the Sustainable  
13 Development Testing Site Act:

14 A. "permittee" means a person who holds a testing  
15 site permit;

16 B. "planning commission" means a county planning  
17 commission appointed pursuant to Section 4-57-1 NMSA 1978;  
18 provided that, if no county planning commission has been  
19 appointed pursuant to that section, "planning commission" means  
20 the board of county commissioners;

21 C. "sustainable development" means a live-in  
22 environment composed of structures and systems that internally  
23 produce utilities and life-support systems free of existing  
24 conventional grids and disposal systems. "Sustainable  
25 development" includes:

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1 (1) heating and cooling without the  
2 consumption of fossil fuels;

3 (2) the generation and use of electricity  
4 without the consumption of fossil fuels and free of connections  
5 to existing power grids;

6 (3) meeting water needs sufficient for  
7 domestic activities and food production without tapping into  
8 water aquifers;

9 (4) full containment and treatment of sewage  
10 without underground discharge;

11 (5) construction methods that make use of the  
12 vast resource of materials discarded by modern society;

13 (6) production of food for those living within  
14 the environment; and

15 (7) the development of organic fuels for  
16 consumption within the environment;

17 D. "sustainable development research" means  
18 activities conducted at a sustainable development testing site  
19 that test ideas, concepts or inventions designed to lead  
20 ultimately to sustainable development;

21 E. "sustainable development testing site" means an  
22 area that is:

23 (1) greater than five acres but less than two  
24 hundred acres;

25 (2) situated wholly outside the planning and

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1 platting jurisdiction of a municipality; and

2 (3) subject to a testing site permit and  
3 existing federal laws and regulations; and

4 F. "testing site permit" means a permit, issued by  
5 a planning commission, that designates an area as a sustainable  
6 development testing site and specifies:

7 (1) the sustainable development research that  
8 can be conducted within the site by the permittee; and

9 (2) the state laws, county ordinances and  
10 state and county rules from which the permittee and the  
11 research are exempt.

12 Section 4. APPLICATION FOR TESTING SITE PERMIT--  
13 EVALUATION--NOTICE OF PUBLIC HEARING. --

14 A. A person desiring a testing site permit shall  
15 submit an application to the planning commission for the county  
16 in which the proposed sustainable development testing site is  
17 located. The application shall include:

18 (1) a detailed description of the sustainable  
19 development research that will be conducted on the site,  
20 including an explanation of the ideas, concepts and inventions  
21 that will be tested;

22 (2) a schematic layout of the site;

23 (3) the number of inhabitants and employees  
24 that are expected to occupy the site;

25 (4) an assessment of the state laws, county

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1 ordinances and state and county rules relating to construction  
2 or building requirements, occupancy, zoning, water use,  
3 subdivisions or environmental protection that may inhibit the  
4 proposed sustainable development research and an explanation of  
5 how damage to the surrounding area and permanent damage to the  
6 area within the site will be avoided if the permittee and the  
7 proposed sustainable development research at the site are  
8 exempted from the laws, ordinances and rules;

9 (5) an application fee, set by the planning  
10 commission, equal to the estimated costs of evaluating the  
11 application, holding the public hearing and administering the  
12 permit; and

13 (6) such other information as may be required  
14 by rule of the planning commission or ordinance of the county.

15 B. Upon receipt of a complete application, the  
16 planning commission shall:

17 (1) forward a copy of the application to the  
18 department of environment and to other state or local agencies  
19 charged with enforcing the affected laws, ordinances and rules  
20 identified in the application;

21 (2) set a date, not less than sixty days nor  
22 more than ninety days after receipt of the application, for a  
23 public hearing on the application; and

24 (3) publish in a newspaper of general  
25 circulation in the county an announcement of its receipt of the

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1 application, notice of the hearing and information concerning  
2 where an interested person can obtain a copy of the  
3 application.

4 C. The department of environment and each other  
5 state and local agency receiving a copy of the application  
6 shall, within sixty days after the application is submitted to  
7 the planning commission:

8 (1) evaluate the application and the proposed  
9 sustainable development research to be performed at the  
10 proposed sustainable development testing site. In making the  
11 evaluation, the agency may communicate with the applicant as  
12 necessary to make an accurate evaluation;

13 (2) determine whether:

14 (a) the proposed sustainable development  
15 testing site and the sustainable development research proposed  
16 to be conducted at the site will damage land, water or air  
17 adjacent to the site or will permanently damage the area of the  
18 site; and

19 (b) the proposed sustainable development  
20 research at the site is beneficial to sustainable development;  
21 and

22 (3) submit its findings to the planning  
23 commission.

24 Section 5. APPLICATION FOR TESTING SITE PERMIT--PUBLIC  
25 HEARING--DECISION. --

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1           A. At the public hearing for a sustainable  
2 development testing site application pursuant to Section 4 of  
3 the Sustainable Development Testing Site Act, the planning  
4 commission shall hear comments from all interested persons,  
5 federal, state or local agencies and, if appropriate, responses  
6 from the applicant.

7           B. Within two weeks after the hearing, the planning  
8 commission shall, in writing, make its decision. The planning  
9 commission shall issue a testing site permit if it determines  
10 that:

11                   (1) no state or local agency, evaluating the  
12 sustainable development testing site application pursuant to  
13 Section 4 of the Sustainable Development Testing Site Act, has  
14 determined that the site or sustainable development research  
15 proposed to be conducted at the site will damage land, water or  
16 air adjacent to the site or will permanently damage the area of  
17 the site;

18                   (2) no existing federal laws or regulations  
19 relating to hazardous waste, drinking water or air quality will  
20 be violated by the proposed sustainable development research at  
21 the site;

22                   (3) the proposed sustainable development  
23 research at the site is beneficial to sustainable development;  
24 and

25                   (4) the site and proposed sustainable



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1 development research are otherwise beneficial to the county and  
2 to the state.

3 C. A testing site permit shall include:

4 (1) the specific sustainable development  
5 research that may be conducted at the sustainable development  
6 testing site;

7 (2) the maximum number of structures that may  
8 be constructed;

9 (3) the maximum number of individuals that may  
10 inhabit the site;

11 (4) the specific state laws, county ordinances  
12 and state and county rules relating to construction or building  
13 requirements, occupancy, zoning, water use, subdivisions or  
14 environmental protection from which the permittee and the  
15 permittee's sustainable development research on the site are  
16 exempt; and

17 (5) such other restrictions on the site and  
18 the permittee's activities as determined by the planning  
19 commission.

20 Section 6. TESTING SITE PERMIT--EFFECT.--As long as a  
21 testing site permit is in effect:

22 A. the permittee, when conducting sustainable  
23 development research that is specified in the permit, is exempt  
24 from the state laws, county ordinances and state and county  
25 rules relating to construction or building requirements,

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1 occupancy, zoning, water use, subdivisions or environmental  
2 protection that are identified in the permit;

3 B. no other permit or approval of the state or any  
4 of its political subdivisions shall be required of the  
5 permittee to conduct the sustainable development research that  
6 is specified in the permit;

7 C. employees and agents of the state or the county  
8 may, at all reasonable times, enter the sustainable development  
9 testing site for the purpose of inspecting the site and  
10 activities conducted on the site to ensure that conditions  
11 specified in the permit are being met;

12 D. the permittee shall annually, no later than the  
13 anniversary date of the permit, submit a report to the planning  
14 commission describing the sustainable development research  
15 conducted during the preceding twelve months and summarizing  
16 the results. All information contained in the report and all  
17 other information learned from activities pursuant to the  
18 permit shall be made available to the public;

19 E. the permittee shall allow no person, including  
20 participants, visitors and inhabitants, to enter the  
21 sustainable development testing site without signing an  
22 agreement to release from liability the permittee, state and  
23 county for any loss suffered by the person as a result of the  
24 person's entrance to the site;

25 F. the planning commission may revoke the permit if

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1 it finds, after a public hearing, that the permittee has  
2 violated a permit provision or a provision of the Sustainable  
3 Development Testing Site Act; and

4 G. a permittee may apply to have a permit amended  
5 by submitting a new application pursuant to Section 4 of the  
6 Sustainable Development Testing Site Act; provided that, if the  
7 planning commission determines that the proposed amendment will  
8 not substantially alter the sustainable development research or  
9 other activities conducted at the sustainable development  
10 testing site, it may waive the requirements of that section for  
11 notice and public hearing.

12 Section 7. SALE OF LAND WITHIN A SUSTAINABLE DEVELOPMENT  
13 TESTING SITE. --Land within a sustainable development testing  
14 site shall not be sold in whole or in part unless:

15 A. the subsequent owner obtains a testing site  
16 permit pursuant to the provisions of the Sustainable  
17 Development Testing Site Act; or

18 B. if the subsequent owner does not obtain a  
19 testing site permit:

20 (1) the permittee complies with the New Mexico  
21 Subdivision Act; and

22 (2) the subsequent owner and the parcel sold  
23 are subject to all state and local laws.

24 Section 8. EFFECTIVE DATE. --The effective date of the  
25 provisions of this act is July 1, 2005.

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