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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/07
 LAST UPDATED 2/13/07 HB 534/aHBIC

SPONSOR Wirth

SHORT TITLE Sustainable Building Tax Credit SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$450.0)	(\$700.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates SB543

SOURCES OF INFORMATION

LFC Files
 US Green Building Council

Responses Received From

Energy Minerals and Natural Resources Department (EMNRD)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amended House Bill 534 to correct an error in the table of credits (Table A-1). The amendment also limits the credit for manufactured housing, makes the definition of sustainable residential building for single-family residences conform with the definition for multi-family residences, and clarifies that the credit is to be claimed when the building receives certification.

Table A-1: New Table of Credit Amounts

Commercial	First 10,000 sq ft	10,001 to 50,000 sq ft	50,001 to 500,000 sq ft
LEED NC Silver	\$ 3.50	\$ 1.75	\$ 0.70
LEED NC Gold	4.75	2.00	1.00
LEED NC Platinum	6.25	3.25	2.00
LEED EB/CS Silver	2.50	1.25	0.50
LEED EB/CS Gold	3.35	1.40	0.70
LEED EB/CS Platinum	4.40	2.30	1.40
LEED CI Silver	1.40	0.70	0.30
LEED CI Gold	1.90	0.80	0.40
LEED CI Platinum	2.50	1.30	0.80
Residential	First 2,000 sq ft	2,001 + sq ft	
Build Green NM Gold	\$ 4.50	\$ 2.00	
LEED H Silver	3.00	2.50	
LEED H Gold	6.85	3.40	
LEED H Platinum	9.00	4.45	
EPA Energy Star	\$5 up to 3,000 sq ft		

Synopsis of Original Bill

House Bill 534 allows a new credit under both the Income Tax Act and the Corporate Income and Franchise Act for the construction or renovation of a commercial building or the construction of a residential building following “sustainable” guidelines as established by the US green building council, Homebuilders of NM, or the Environmental Protection Agency for manufactured housing. The guidelines, referred to as LEED for “leadership in energy and environmental design,” have different levels of compliance and the credit is scaled accordingly.

A taxpayer, who is the owner of the building being constructed or renovated according to LEED standards and for which a credit has not previously been claimed, would apply to the Energy Minerals and Natural Resources Department (EMNRD) to validate the credit. EMNRD issues a certificate that can be transferred through sale, exchange or other means to another taxpayer.

The taxpayer holding the certificate can claim the credit against tax liability over four years if the credit amount exceeds \$25,000 in 25 percent increments. If the credit value is less than \$25,000, the taxpayer can claim all of it in the taxable year the certificate was issued. If the credit exceeds liability in either case, the taxpayer can carry the credit forward for up to seven years.

The credit can be used for the construction/renovation of either commercial or residential buildings. EMNRD can only issue an aggregate of \$10 million in credits per year, \$5 million for commercial buildings and \$5 million for residential buildings.

A solar thermal or photovoltaic system can be claimed as part of sustainable building if a solar market development credit has not been and will not be claimed.

The credit is allowable for tax years 2007 through 2013.

The credit is awarded according to square footage by different levels of certification:

Commercial	First 10,000 sq ft	10,001 to 50,000 sq ft	50,001 to 500,000 sq ft
LEED NC Silver	\$ 3.50	\$ 1.75	\$ 0.70
LEED NC Gold	4.75	2.00	1.00
LEED NC Platinum	6.25	3.25	2.00
LEED EB/CS Silver	2.50	1.25	0.50
LEED EB/CS Gold	3.35	1.40	0.70
LEED EB/CS Platinum	4.40	2.30	1.40
LEED CI Silver	1.40	0.70	0.30
LEED CI Gold	1.90	0.80	0.40
LEED CI Platinum	2.50	1.30	0.80

Residential	First 2,000 sq ft	2,001 + sq ft
Build Green NM Gold	\$ 3.00	\$ 1.00
LEED H Silver	5.00	2.50
LEED H Gold	6.85	3.40
LEED H Platinum	9.00	4.45

EPA Energy Star \$5 up to 3,000 sq ft

Note: NC = New Construction; EB = Existing Building; CS = Core/Shell; CI = Commercial Interiors; H = Homes

A complete explanation of LEED standards is included as an attachment.

FISCAL IMPLICATIONS

The HBIC amendment does not change the fiscal impact.

According to Taxation and Revenue Department (TRD), the fiscal impact would start out as a \$450 thousand reduction in general fund revenues in FY08 and increase to over \$3.3 million by FY13. This assumes an increasing amounts of eligible square footage over time (see table 2) and 50 percent of the credits actually being claimed, due to transferability. The average credit per square foot was assumed to be \$250.

Table 2: Assumed Total Eligible Square Footage: (Thousands of square feet)

Calendar year:	Commercial buildings:	Residential buildings:
2007	250	100
2008	375	150
2009	563	225
2010	844	338
2011	1,266	506
2012	1,898	759
2013	2,847	1,139

Source: TRD

SIGNIFICANT ISSUES

Transferability is an important feature of this bill and makes it a more effective credit by allowing start-ups and other entities that may not have sufficient tax liability to get immediate funds by trading or selling the credit. This is often how carbon or pollution taxes work. For example, if a small contractor commits to building sustainable buildings, it can claim the credit and sell it to a larger contractor who wants to offset its tax liability. There is no clear mechanism in HB534 to establish a clear and open market for these credits, such as an exchange similar to the Chicago Climate exchange.

It is important to note that the credit is not applicable to renovations of existing houses. The US Green Building Council, which established the LEED rating system, established the rating system to apply to new homes. However, as indicated in the bolded portion of the citation below, renovations may become part of the rating.

“LEED for Homes was designed to assess and label newly constructed homes. It cannot be used to assess or label a portion of a home. Only a substantial or “gut” rehab project may be included in LEED for Homes **at this time**. Partially renovated homes cannot be rated under LEED for Homes.” (bolding added) - *LEED for Homes Program Pilot Rating System, USGBC Jan 2007*

EMNRD:

HB 534 directly influences the impact of climate change and the reduction of greenhouse gas emissions through reduced fossil fuel consumption. By reducing the overall energy consumption in a building the cost-effectiveness of using onsite renewable energy increases. Most significantly, New Mexico lags behind other states in developing a robust supplier base for green building products, making it expensive to construct green buildings. This is a largely untapped opportunity for economic development.

The potential for economic benefit for New Mexico is great. New technology, product manufacturing and energy related specialty consulting businesses will be drawn to the state when a vibrant green building industry emerges.

The 2030^oChallenge, an initiative that includes the American Institute of Architects, reports data “from the U.S. Energy Information Administration illustrates that buildings are responsible for almost half (48%) of all greenhouse gas (GHG) emissions annually; globally the percentage is even greater. Seventy-six percent of all electricity generated in U.S. power plants goes to supply the ‘Building Sector’. Immediate action in the Building Sector is essential if we are to avoid hazardous climate change.”

ADMINISTRATIVE IMPLICATIONS

EMNRD reports that there will be an administrative impact to establish eligibility and provide and monitor certificates.

TRD indicates they will require ¼ of an FTE to administer the program due to the new record-keeping and processing requirements.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 543 is a duplicate bill.

OTHER SUBSTANTIVE ISSUES

Other States with similar credits:

NEW YORK STATE: New York enacted a green building credit in 2001 and they are estimating it to cost almost \$1 million in 2005.

Effective Date: Effective for costs incurred on or after June 1, 1999 and certified by the Department of Environmental Conservation prior to 2004. The credit is allowable for tax years 2001 through 2009.

Description: Taxpayers may claim a credit for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Credits may also be claimed for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants.

Estimates: 2002: \$0.3 million - 2005: \$0.9 million

Data Source: Personal Income Tax Clearing House data file

OREGON: Oregon has a Business Energy Tax Credit that is estimated to have cost \$22 million in 2003 but saved \$26 million in energy costs to businesses. EcoNorthwest, an economic consulting firm, prepared a report of the economic impact of Oregon's credits:

http://www.oregon.gov/ENERGY/CONS/docs/EcoNW_Study.pdf

ALTERNATIVES

The bill now excludes residential renovations from the credit not by language but by the current definition of the LEED for Homes. The US GBC may change this definition in the future and it would automatically be included in eligible projects. Including renovations would likely increase the fiscal impact significantly and so if the intent is to exclude renovations, a clearer definition is necessary.

Attachment

NF/csd

The LEED® for New Construction Rating System (LEED-NC) defines the leadership position for designing and building commercial, institutional and government buildings in a way that produces quantifiable benefits for occupants, the environment and their owners. It has emerged as the national leader in market transformation of the commercial sector, making a convincing value proposition for building green.

Designed for use during the design and construction phases of a building, LEED-NC addresses the environmental impacts of site and materials selection, demolition, and construction. LEED facilitates and encourages project teams to use an integrated design approach from start to finish, resulting in buildings with lower impact on occupants and the environment, and a positive economic impact for owners.

LEED-NC: RECOGNIZED VALUE

Since its launch in 2000, over 2000 building projects have registered for LEED-NC in the United States and internationally, and over 45 million square feet of space has been LEED-NC certified. Companies and individuals throughout the building industry understand that LEED-NC certification brings value to their projects, and they are adapting their services and products to help owners obtain certification. Numerous recent cost studies show that LEED certification can be gained for minimal to no additional cost when compared to traditional, non-green building.

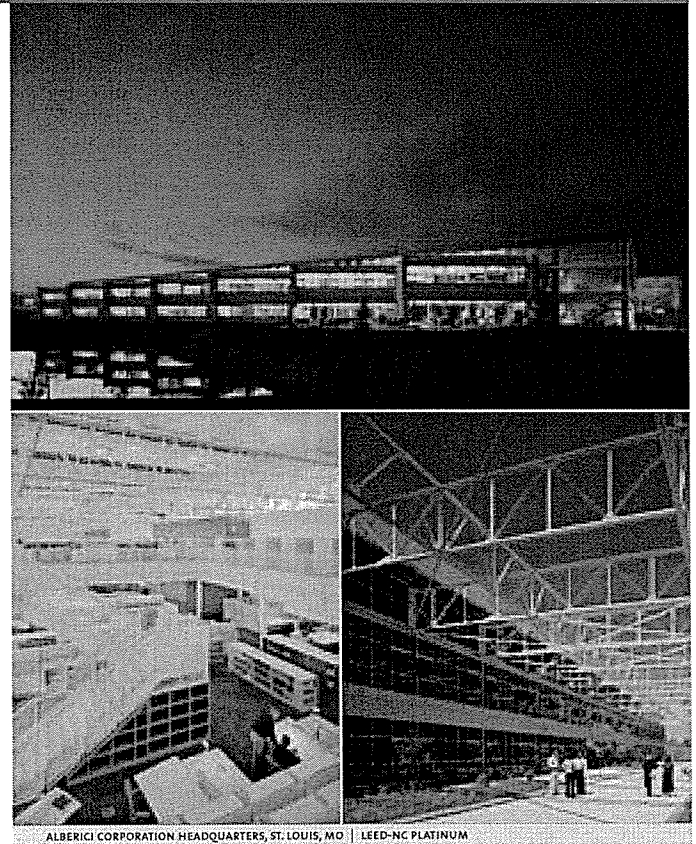
RECOGNIZED LEADERSHIP

Companies and organizations are finding they can do well by doing good. As the nationally recognized voluntary rating system for green buildings, LEED-NC certification showcases your environmental commitment and leadership, sending a strong message to employees and the wider community that you care about their health.

The LEED-NC Rating System promotes improved practices in:

- Site selection and development
- Water and energy use
- Environmentally preferred construction products, finishes and furnishings
- Waste stream management
- Indoor environmental quality
- Innovation in sustainable design and construction

PHOTO CREDIT: COURTESY OF ALBERICI CORP.



ALBERICI CORPORATION HEADQUARTERS, ST. LOUIS, MO | LEED-NC PLATINUM

REALIZE THE BENEFITS OF LEED-NC CERTIFICATION

- Enhanced occupant well-being and comfort
- Reduced operating costs
- Reduced environmental impact
- Increased building valuation and return on investment
- Marketing advantage
- Reduced absenteeism and employee turnover
- Increased retail sales

Based on recent analysis, the aggregate total return of publicly held companies affiliated with the USGBC outperformed the Dow Jones Industrial Average by over 18% from 2000 to 2004. This may indicate well-managed, progressive companies are looking to build and operate green as an opportunity to differentiate themselves as leaders in the marketplace.



LEED-NC

Build green. Everyone profits.

LEED-NC CERTIFICATION LEVELS

Points	Levels
26 – 32	Certified
33 – 38	Silver
39 – 51	Gold
52 – 69	Platinum

Sustainable Sites 14 points

Goals

- Develop only appropriate sites
- Reuse existing buildings and/or sites
- Protect natural and agricultural areas
- Reduce need for automobile use
- Protect and/or restore natural sites

Water Efficiency 5 points

Goals

- Reduce the quantity of water needed for the building
- Reduce municipal water supply and treatment burden

Energy & Atmosphere 17 points

Goals

- Establish energy efficiency and system performance
- Optimize energy efficiency
- Encourage renewable and alternative energy sources
- Support ozone protection protocols

Materials & Resources 13 points

Goals

- Use materials with less environmental impact
- Reduce and manage waste
- Reduce the amount of materials needed

Indoor Environmental Quality 15 points

Goals

- Establish good indoor air quality
- Eliminate, reduce and manage the sources of indoor air pollution
- Ensure thermal comfort and systems controllability
- Provide for occupant connection to the outdoor environment

Innovation in Design up to 5 additional points

Goals

- Recognize exceptional performance in any achieved LEED-NC credit
- Recognize innovation in green building categories not specifically addressed by LEED-NC credits

ABOUT LEED® (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN)

The LEED Green Building Rating System™ is the industry-recognized, voluntary standard that defines high performance green buildings — which are healthier, more environmentally responsible and more profitable structures. In addition to providing strategies for achieving a green building, LEED certification offers a marketable advantage over competitors and third-party validation of your sustainable accomplishments. The U.S. Green Building Council (USGBC) has developed rating systems for all aspects of the built environment:

- LEED for New Construction (NC)
- LEED for Existing Buildings (EB)
- LEED for Commercial Interiors (CI)
- LEED for Core and Shell (CS) in pilot
- LEED for Homes (H) in pilot
- LEED for Neighborhood Development (ND) pilot in 2006

HOW TO GET STARTED WITH LEED-NC

- **Visit the Web site** — Go to www.usgbc.org/LEED/nc to learn more about LEED-NC, review the rating system, download case studies and check out the FAQs.
- **Attend a LEED-NC Workshop** — Workshops provide a detailed exploration of the rating system, case studies and effective strategies for greening your building operations. A complete schedule of LEED workshops is available at www.usgbc.org/workshops.
- **Become a Member** — Encourage your company to join the USGBC. Not only are USGBC members recognized leaders in supporting a better built environment, they also receive a wide array of discounts on project registration and certification, accreditation, workshops and resource materials.
- **Attend Greenbuild** — Greenbuild International Conference and Expo is the premier conference on everything related to green building. Sponsored by the USGBC, Greenbuild hosts thousands of building industry professionals and is the annual place for learning, networking and exploring the latest advancements in green building design, construction, financing, operations and maintenance. www.greenbuildexpo.org
- **Get involved with your local chapter** — USGBC Chapters routinely host informative presentations and are a great way to connect with other professionals in your region who have experience implementing LEED-NC. Find your local USGBC chapter at www.usgbc.org/chapters.
- **Become a LEED Accredited Professional** — LEED Professional Accreditation is a distinguished pursuit among those aspiring to demonstrate their ability to apply the LEED Rating System to green building projects and facilitate and encourage the integrated design process.

Contact the USGBC — For questions related to LEED, workshops and the accreditation exam, e-mail leed-nc@usgbc.org. For questions about membership, chapters or the USGBC in general, e-mail info@usgbc.org or call 202-828-7422.