

1 SENATE BILL 279

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Peter Wirth and Carl Trujillo

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10 AN ACT

11 RELATING TO TAXATION; INCREASING THE AGGREGATE AMOUNT OF
12 SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME TAX ACT
13 AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; REDUCING THE
14 AMOUNT OF CREDIT THAT MAY BE CLAIMED PER SQUARE FOOT FOR
15 SUSTAINABLE RESIDENTIAL BUILDINGS; CREATING SEPARATE AGGREGATE
16 LIMITS OF SUSTAINABLE BUILDING TAX CREDITS FOR CERTAIN
17 SUSTAINABLE BUILDINGS; CREATING A NEW SUSTAINABLE BUILDING TAX
18 CREDIT WITH WATER CONSERVATION REQUIREMENTS PURSUANT TO THE
19 INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. Section 7-2-18.19 NMSA 1978 (being Laws 2007,
23 Chapter 204, Section 3, as amended) is amended to read:

24 "7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

25 A. The tax credit provided by this section may be

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1 referred to as the "sustainable building tax credit". The
2 sustainable building tax credit shall be available for the
3 construction in New Mexico of a sustainable building, the
4 renovation of an existing building in New Mexico into a
5 sustainable building or the permanent installation of
6 manufactured housing, regardless of where the housing is
7 manufactured, that is a sustainable building. The tax credit
8 provided in this section may not be claimed with respect to the
9 same sustainable building for which the sustainable building
10 tax credit provided in the Corporate Income and Franchise Tax
11 Act has been claimed.

12 B. The purpose of the sustainable building tax
13 credit is to encourage the construction of sustainable
14 buildings and the renovation of existing buildings into
15 sustainable buildings.

16 C. A taxpayer who files an income tax return is
17 eligible to be granted a sustainable building tax credit by the
18 department if the taxpayer submits a document issued pursuant
19 to Subsection [J] K of this section with the taxpayer's income
20 tax return.

21 D. For taxable years ending on or before
22 December 31, 2016, the sustainable building tax credit may be
23 claimed with respect to a sustainable commercial building. The
24 credit shall be calculated based on the certification level the
25 building has achieved in the LEED green building rating system

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

3 LEED Rating Level	4 Qualified 5 Occupied 6 Square Footage	7 Tax Credit 8 per Square 9 Foot
10 LEED-NC Silver	11 First 10,000	12 \$3.50
	13 Next 40,000	14 \$1.75
	15 Over 50,000	
	16 up to 500,000	17 \$.70
18 LEED-NC Gold	19 First 10,000	20 \$4.75
	21 Next 40,000	22 \$2.00
	23 Over 50,000	
	24 up to 500,000	25 \$1.00
26 LEED-NC Platinum	27 First 10,000	28 \$6.25
	29 Next 40,000	30 \$3.25
	31 Over 50,000	
	32 up to 500,000	33 \$2.00
34 LEED-EB or CS Silver	35 First 10,000	36 \$2.50
	37 Next 40,000	38 \$1.25
	39 Over 50,000	
	40 up to 500,000	41 \$.50
42 LEED-EB or CS Gold	43 First 10,000	44 \$3.35
	45 Next 40,000	46 \$1.40
	47 Over 50,000	
	48 up to 500,000	49 \$.70

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

17 E. For taxable years ending on or before
18 December 31, 2016, the sustainable building tax credit may be
19 claimed with respect to a sustainable residential building.
20 The credit shall be calculated based on the amount of qualified
21 occupied square footage, as indicated on the following chart:

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

25 LEED-H Silver or Build [~~First~~] Up to 2,000 [~~\$5.00~~]

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1			<u>\$3.00</u>
2	Green NM Silver	[Next 1,000]	\$2.50]
3	LEED-H Gold or Build	[First] <u>Up to 2,000</u>	[\$6.85]
4			<u>\$4.50</u>
5	Green NM Gold	[Next 1,000]	\$3.40]
6	LEED-H Platinum or Build	[First] <u>Up to 2,000</u>	[\$9.00]
7			<u>\$6.50</u>
8	Green NM Emerald	[Next 1,000]	\$4.45]
9	EPA ENERGY STAR		
10	Manufactured Housing	Up to [3,000] <u>2,000</u>	\$3.00.

11 F. A person that is a building owner may apply for
12 ~~[ta]~~ a certificate of eligibility for the sustainable building
13 tax credit from the energy, minerals and natural resources
14 department after the construction, installation or renovation
15 of the sustainable building is complete. Applications shall be
16 considered in the order received. If the energy, minerals and
17 natural resources department determines that the building owner
18 meets the requirements of this subsection and that the building
19 with respect to which the tax credit application is made meets
20 the requirements of this section as a sustainable residential
21 building or a sustainable commercial building, the energy,
22 minerals and natural resources department may issue a
23 certificate of eligibility to the building owner, subject to
24 the ~~[limitation]~~ limitations in Subsection G of this section.
25 The certificate shall include the rating system certification

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1 level awarded to the building, the amount of qualified occupied
2 square footage in the building and a calculation of the maximum
3 amount of sustainable building tax credit for which the
4 building owner would be eligible. The energy, minerals and
5 natural resources department may issue rules governing the
6 procedure for administering the provisions of this subsection.
7 If the certification level for the sustainable residential
8 building is awarded on or after January 1, 2007, the energy,
9 minerals and natural resources department may issue a
10 certificate of eligibility to a building owner who is:

11 (1) the owner of the sustainable residential
12 building at the time the certification level for the building
13 is awarded; or

14 (2) the subsequent purchaser of a sustainable
15 residential building with respect to which no tax credit has
16 been previously claimed.

17 G. Except as provided in Subsection H of this
18 section, the energy, minerals and natural resources department
19 may issue a certificate of eligibility only if the total amount
20 of sustainable building tax credits represented by certificates
21 of eligibility issued by the energy, minerals and natural
22 resources department pursuant to this section and pursuant to
23 the Corporate Income and Franchise Tax Act shall not exceed in
24 any calendar year an aggregate amount of [~~one million dollars~~
25 ~~(\$1,000,000)~~]:

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1 (1) two million five hundred thousand dollars
2 (\$2,500,000) with respect to sustainable commercial buildings
3 [~~and an aggregate amount of four million dollars (\$4,000,000)~~];

4 (2) six million seven hundred fifty thousand
5 dollars (\$6,750,000) with respect to sustainable residential
6 buildings [~~provided that no more than one million two hundred~~
7 ~~fifty thousand dollars (\$1,250,000) of the aggregate amount~~
8 ~~with respect to sustainable residential buildings shall be for~~
9 ~~manufactured housing. If for any taxable year the energy,~~
10 ~~minerals and natural resources department determines that the~~
11 ~~applications for sustainable building tax credits with respect~~
12 ~~to sustainable residential buildings for that taxable year~~
13 ~~exceed the aggregate limit set in this section, the energy,~~
14 ~~minerals and natural resources department may issue~~
15 ~~certificates of eligibility under the aggregate annual limit~~
16 ~~for sustainable commercial buildings to owners of sustainable~~
17 ~~residential buildings that meet the requirements of the energy,~~
18 ~~minerals and natural resources department and of this section;~~
19 ~~provided that applications for sustainable building credits for~~
20 ~~other sustainable commercial buildings total less than the full~~
21 ~~amount allocated for tax credits for sustainable commercial~~
22 ~~buildings] that are not manufactured housing; and~~

23 (3) seven hundred fifty thousand dollars
24 (\$750,000) with respect to sustainable residential buildings
25 that are manufactured housing.

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1 H. For any taxable year that the energy, minerals
2 and natural resources department determines that applications
3 for sustainable building tax credits for any type of
4 sustainable building pursuant to Paragraph (1), (2) or (3) of
5 Subsection G of this section are less than the aggregate limit
6 for that type of sustainable building for that taxable year,
7 the energy, minerals and natural resources department shall
8 allow the difference between the aggregate limit and the
9 applications to be added to the aggregate limit of another type
10 of sustainable building for which applications exceeded the
11 aggregate limit for that taxable year. Any excess not used in
12 a taxable year shall not be carried forward to subsequent
13 taxable years.

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

25 ~~[I.]~~ J. To be eligible for the sustainable building

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1 tax credit, the building owner shall provide to the taxation
2 and revenue department a certificate of eligibility issued by
3 the energy, minerals and natural resources department pursuant
4 to the requirements of Subsection F of this section and any
5 other information the taxation and revenue department may
6 require to determine the amount of the tax credit for which the
7 building owner is eligible.

8 ~~[J-]~~ K. If the requirements of this section have
9 been complied with, the department shall issue to the building
10 owner a document granting a sustainable building tax credit.
11 The document shall be numbered for identification and declare
12 its date of issuance and the amount of the tax credit allowed
13 pursuant to this section. The document may be submitted by the
14 building owner with that taxpayer's income tax return, if
15 applicable, or may be sold, exchanged or otherwise transferred
16 to another taxpayer. The parties to such a transaction shall
17 notify the department of the sale, exchange or transfer within
18 ten days of the sale, exchange or transfer.

19 ~~[K-]~~ L. If the total approved amount of all
20 sustainable building tax credits for a taxpayer in a taxable
21 year represented by the ~~[documents]~~ document issued pursuant to
22 Subsection ~~[J]~~ K of this section is:

23 (1) less than one hundred thousand dollars
24 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)
25 shall be applied against the taxpayer's income tax liability

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1 for the taxable year for which the credit is approved and the
2 next three subsequent taxable years as needed depending on the
3 amount of credit; or

4 (2) one hundred thousand dollars (\$100,000) or
5 more, increments of twenty-five percent of the total credit
6 amount in each of the four taxable years, including the taxable
7 year for which the credit is approved and the three subsequent
8 taxable years, shall be applied against the taxpayer's income
9 tax liability.

10 [~~H.~~] M. If the sum of all sustainable building tax
11 credits that can be applied to a taxable year for a taxpayer,
12 calculated according to Paragraph (1) or (2) of Subsection [~~K~~]
13 L of this section, exceeds the taxpayer's income tax liability
14 for that taxable year, the excess may be carried forward for a
15 period of up to seven years.

16 [~~M.~~] N. A taxpayer who otherwise qualifies and
17 claims a sustainable building tax credit with respect to a
18 sustainable building owned by a partnership or other business
19 association of which the taxpayer is a member may claim a
20 credit only in proportion to that taxpayer's interest in the
21 partnership or association. The total credit claimed in the
22 aggregate by all members of the partnership or association with
23 respect to the sustainable building shall not exceed the amount
24 of the credit that could have been claimed by a sole owner of
25 the property.

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1 ~~[N. A husband and wife]~~ O. Married individuals who
2 file separate returns for a taxable year in which they could
3 have filed a joint return may each claim only one-half of the
4 sustainable building tax credit that would have been allowed on
5 a joint return.

6 ~~[O.]~~ P. The department shall compile an annual
7 report on the sustainable building tax credit created pursuant
8 to this section that shall include the number of taxpayers
9 approved by the department to receive the tax credit, the
10 aggregate amount of tax credits approved and any other
11 information necessary to evaluate the effectiveness of the tax
12 credit. Beginning in 2015 and every five years thereafter, the
13 department shall compile and present the annual reports to the
14 revenue stabilization and tax policy committee and the
15 legislative finance committee with an analysis of the
16 effectiveness and cost of the tax credit and whether the tax
17 credit is performing the purpose for which it was created.

18 ~~[P.]~~ Q. For the purposes of this section:

19 (1) "build green New Mexico rating system"
20 means the certification standards adopted by ~~[the homebuilders~~
21 ~~association of central New Mexico]~~ build green New Mexico in
22 January 2013;

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

25 (3) "LEED-CS" means the LEED rating system for

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1 the core and shell of buildings;

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

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

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

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

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

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

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

21 (11) "manufactured housing" means a
22 multisectioned home that is:

23 (a) a manufactured home or modular home;

24 (b) a single-family dwelling with a
25 heated area of at least thirty-six feet by twenty-four feet and

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1 a total area of at least eight hundred sixty-four square feet;

2 (c) constructed in a factory to the
3 standards of the United States department of housing and urban
4 development, the National Manufactured Housing Construction and
5 Safety Standards Act of 1974 and the Housing and Urban
6 Development Zone Code 2 or New Mexico construction codes up to
7 the date of the unit's construction; and

8 (d) installed consistent with the
9 Manufactured Housing Act and rules adopted pursuant to that act
10 relating to permanent foundations;

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

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

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

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

20 (13) "person" does not include state, local
21 government, public school district or tribal agencies;

22 (14) "sustainable building" means either a
23 sustainable commercial building or a sustainable residential
24 building;

25 (15) "sustainable commercial building" means a

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1 multifamily dwelling unit, as registered and certified under
2 the LEED-H or build green New Mexico rating system, that is
3 certified by the United States green building council as LEED-H
4 silver or higher or by build green New Mexico as silver or
5 higher and has achieved a home energy rating system index of
6 sixty or lower as developed by the residential energy services
7 network or a building that has been registered and certified
8 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
9 and that:

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

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

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

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1 (16) "sustainable residential building" means:

2 (a) a building used as a single-family
3 residence as registered and certified under the build green New
4 Mexico or LEED-H rating system that: 1) is certified by the
5 United States green building council as LEED-H silver or higher
6 or by build green New Mexico as silver or higher; ~~and~~ 2) has
7 achieved a home energy rating system index of sixty or lower as
8 developed by the residential energy services network; and 3)
9 for a sustainable residential building certified on or after
10 July 1, 2015, has indoor plumbing fixtures and water-using
11 appliances that, on average, have flow rates equal to or lower
12 than the flow rates required for certification by WaterSense;
13 and, if landscape area is available at the front of the
14 property, has at least one water line that may be connected to
15 a drip irrigation system; or

16 (b) manufactured housing that is ENERGY
17 STAR-qualified by the United States environmental protection
18 agency; ~~and~~

19 (17) "tribal" means of, belonging to or
20 created by a federally recognized Indian nation, tribe or
21 pueblo; and

22 (18) "WaterSense" means a program created by
23 the federal environmental protection agency that certifies
24 water-using products that meet the environmental protection
25 agency's criteria for efficiency and performance."

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1 SECTION 2. Section 7-2A-21 NMSA 1978 (being Laws 2007,
2 Chapter 204, Section 4, as amended) is amended to read:

3 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

4 A. The tax credit provided by this section may be
5 referred to as the "sustainable building tax credit". The
6 sustainable building tax credit shall be available for the
7 construction in New Mexico of a sustainable building, the
8 renovation of an existing building in New Mexico into a
9 sustainable building or the permanent installation of
10 manufactured housing, regardless of where the housing is
11 manufactured, that is a sustainable building. The tax credit
12 provided in this section may not be claimed with respect to the
13 same sustainable building for which the sustainable building
14 tax credit provided in the Income Tax Act has been claimed.

15 B. The purpose of the sustainable building tax
16 credit is to encourage the construction of sustainable
17 buildings and the renovation of existing buildings into
18 sustainable buildings.

19 C. A taxpayer that files a corporate income tax
20 return is eligible to be granted a sustainable building tax
21 credit by the department if the taxpayer submits a document
22 issued pursuant to Subsection [J] K of this section with the
23 taxpayer's corporate income tax return.

24 D. For taxable years ending on or before
25 December 31, 2016, the sustainable building tax credit may be

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

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

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

21 E. For taxable years ending on or before
22 December 31, 2016, the sustainable building tax credit may be
23 claimed with respect to a sustainable residential building.
24 The credit shall be calculated based on the amount of
25 qualified occupied square footage, as indicated on the

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1 following chart:

2 Rating System/Level	3 Qualified	4 Tax Credit
	5 Occupied	6 per Square
	7 Square Footage	8 Foot
9 LEED-H Silver or Build	10 [First] <u>Up to 2,000</u>	11 [\$5.00]
		12 <u>\$3.00</u>
13 Green NM Silver	14 [Next 1,000]	15 [\$2.50]
16 LEED-H Gold or Build	17 [First] <u>Up to 2,000</u>	18 [\$6.85]
		19 <u>\$4.50</u>
20 Green NM Gold	21 [Next 1,000]	22 [\$3.40]
23 LEED-H Platinum or Build	24 [First] <u>Up to 2,000</u>	25 [\$9.00]
		<u>\$6.50</u>
26 Green NM Emerald	27 [Next 1,000]	28 [\$4.45]
29 EPA ENERGY STAR		
30 Manufactured Housing	31 Up to [3,000] <u>2,000</u>	32 \$3.00.

33 F. A person that is a building owner may apply
34 for a certificate of eligibility for the sustainable building
35 tax credit from the energy, minerals and natural resources
36 department after the construction, installation or renovation
37 of the sustainable building is complete. Applications shall
38 be considered in the order received. If the energy, minerals
39 and natural resources department determines that the building
40 owner meets the requirements of this subsection and that the
41 building with respect to which the tax credit application is
42 made meets the requirements of this section as a sustainable
43

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1 residential building or a sustainable commercial building,
2 the energy, minerals and natural resources department may
3 issue a certificate of eligibility to the building owner,
4 subject to the ~~[limitation]~~ limitations in Subsection G of
5 this section. The certificate shall include the rating
6 system certification level awarded to the building, the
7 amount of qualified occupied square footage in the building
8 and a calculation of the maximum amount of sustainable
9 building tax credit for which the building owner would be
10 eligible. The energy, minerals and natural resources
11 department may issue rules governing the procedure for
12 administering the provisions of this subsection. If the
13 certification level for the sustainable residential building
14 is awarded on or after January 1, 2007, the energy, minerals
15 and natural resources department may issue a certificate of
16 eligibility to a building owner who is:

17 (1) the owner of the sustainable residential
18 building at the time the certification level for the building
19 is awarded; or

20 (2) the subsequent purchaser of a
21 sustainable residential building with respect to which no tax
22 credit has been previously claimed.

23 G. Except as provided in Subsection H of this
24 section, the energy, minerals and natural resources
25 department may issue a certificate of eligibility only if the

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1 total amount of sustainable building tax credits represented
2 by certificates of eligibility issued by the energy, minerals
3 and natural resources department pursuant to this section and
4 pursuant to the Income Tax Act shall not exceed in any
5 calendar year an aggregate amount of [~~one million dollars~~
6 ~~(\$1,000,000)~~]:

7 (1) two million five hundred thousand
8 dollars (\$2,500,000) with respect to sustainable commercial
9 buildings [~~and an aggregate amount of four million dollars~~
10 ~~(\$4,000,000)~~];

11 (2) six million seven hundred fifty thousand
12 dollars (\$6,750,000) with respect to sustainable residential
13 buildings [~~provided that no more than one million two hundred~~
14 ~~fifty thousand dollars (\$1,250,000) of the aggregate amount~~
15 ~~with respect to sustainable residential buildings shall be~~
16 ~~for manufactured housing. If for any taxable year the~~
17 ~~energy, minerals and natural resources department determines~~
18 ~~that the applications for sustainable building tax credits~~
19 ~~with respect to sustainable residential buildings for that~~
20 ~~taxable year exceed the aggregate limit set in this section,~~
21 ~~the energy, minerals and natural resources department may~~
22 ~~issue certificates of eligibility under the aggregate annual~~
23 ~~limit for sustainable commercial buildings to owners of~~
24 ~~sustainable residential buildings that meet the requirements~~
25 ~~of the energy, minerals and natural resources department and~~

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1 ~~of this section; provided that applications for sustainable~~
2 ~~building credits for other sustainable commercial buildings~~
3 ~~total less than the full amount allocated for tax credits for~~
4 ~~sustainable commercial buildings]; and~~

5 (3) seven hundred fifty thousand dollars
6 (\$750,000) with respect to sustainable residential buildings
7 that are manufactured housing.

8 H. For any taxable year that the energy, minerals
9 and natural resources department determines that applications
10 for sustainable building tax credits for any type of
11 sustainable building pursuant to Paragraph (1), (2) or (3) of
12 Subsection G of this section are less than the aggregate
13 limit for that type of sustainable building for that taxable
14 year, the energy, minerals and natural resources department
15 shall allow the difference between the aggregate limit and
16 the applications to be added to the aggregate limit of
17 another type of sustainable building for which applications
18 exceeded the aggregate limit for that taxable year. Any
19 excess not used in a taxable year shall not be carried
20 forward to subsequent taxable years.

21 ~~[H.]~~ I. Installation of a solar thermal system or
22 a photovoltaic system eligible for the solar market
23 development tax credit pursuant to Section 7-2-18.14 NMSA
24 1978 may not be used as a component of qualification for the
25 rating system certification level used in determining

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1 eligibility for the sustainable building tax credit, unless a
2 solar market development tax credit pursuant to Section
3 7-2-18.14 NMSA 1978 has not been claimed with respect to that
4 system and the building owner and the taxpayer claiming the
5 sustainable building tax credit certify that such a tax
6 credit will not be claimed with respect to that system.

7 ~~[F.]~~ J. To be eligible for the sustainable
8 building tax credit, the building owner shall provide to the
9 taxation and revenue department a certificate of eligibility
10 issued by the energy, minerals and natural resources
11 department pursuant to the requirements of Subsection F of
12 this section and any other information the taxation and
13 revenue department may require to determine the amount of the
14 tax credit for which the building owner is eligible.

15 ~~[G.]~~ K. If the requirements of this section have
16 been complied with, the department shall issue to the
17 building owner a document granting a sustainable building tax
18 credit. The document shall be numbered for identification
19 and declare its date of issuance and the amount of the tax
20 credit allowed pursuant to this section. The document may be
21 submitted by the building owner with that taxpayer's income
22 tax return, if applicable, or may be sold, exchanged or
23 otherwise transferred to another taxpayer. The parties to
24 such a transaction shall notify the department of the sale,
25 exchange or transfer within ten days of the sale, exchange or

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1 transfer.

2 ~~[K-]~~ L. If the total approved amount of all
3 sustainable building tax credits for a taxpayer in a taxable
4 year represented by the documents issued pursuant to
5 Subsection ~~[J]~~ K of this section is:

6 (1) less than one hundred thousand dollars
7 (\$100,000), a maximum of twenty-five thousand dollars
8 (\$25,000) shall be applied against the taxpayer's corporate
9 income tax liability for the taxable year for which the
10 credit is approved and the next three subsequent taxable
11 years as needed depending on the amount of credit; or

12 (2) one hundred thousand dollars (\$100,000)
13 or more, increments of twenty-five percent of the total
14 credit amount in each of the four taxable years, including
15 the taxable year for which the credit is approved and the
16 three subsequent taxable years, shall be applied against the
17 taxpayer's corporate income tax liability.

18 ~~[H-]~~ M. If the sum of all sustainable building
19 tax credits that can be applied to a taxable year for a
20 taxpayer, calculated according to Paragraph (1) or (2) of
21 Subsection ~~[K]~~ L of this section, exceeds the taxpayer's
22 corporate income tax liability for that taxable year, the
23 excess may be carried forward for a period of up to seven
24 years.

25 ~~[M-]~~ N. A taxpayer that otherwise qualifies and

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1 claims a sustainable building tax credit with respect to a
2 sustainable building owned by a partnership or other business
3 association of which the taxpayer is a member may claim a
4 credit only in proportion to that taxpayer's interest in the
5 partnership or association. The total credit claimed in the
6 aggregate by all members of the partnership or association
7 with respect to the sustainable building shall not exceed the
8 amount of the credit that could have been claimed by a sole
9 owner of the property.

10 ~~[N-]~~ O. The department shall compile an annual
11 report on the sustainable building tax credit created
12 pursuant to this section that shall include the number of
13 taxpayers approved by the department to receive the tax
14 credit, the aggregate amount of tax credits approved and any
15 other information necessary to evaluate the effectiveness of
16 the tax credit. Beginning in 2015 and every five years
17 thereafter, the department shall compile and present the
18 annual reports to the revenue stabilization and tax policy
19 committee and the legislative finance committee with an
20 analysis of the effectiveness and cost of the tax credit and
21 whether the tax credit is performing the purpose for which it
22 was created.

23 ~~[O-]~~ P. For the purposes of this section:

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

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1 ~~homebuilders association of central New Mexico]~~ build green
2 New Mexico in January 2013;

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

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

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

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

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

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

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

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

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

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1 (11) "manufactured housing" means a
2 multisectioned home that is:

3 (a) a manufactured home or modular
4 home;

5 (b) a single-family dwelling with a
6 heated area of at least thirty-six feet by twenty-four feet
7 and a total area of at least eight hundred sixty-four square
8 feet;

9 (c) constructed in a factory to the
10 standards of the United States department of housing and
11 urban development, the National Manufactured Housing
12 Construction and Safety Standards Act of 1974 and the Housing
13 and Urban Development Zone Code 2 or New Mexico construction
14 codes up to the date of the unit's construction; and

15 (d) installed consistent with the
16 Manufactured Housing Act and rules adopted pursuant to that
17 act relating to permanent foundations;

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

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

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

25 (c) the United States environmental

1 protection agency for ENERGY STAR-certified manufactured
2 homes;

3 (13) "person" does not include state, local
4 government, public school district or tribal agencies;

5 (14) "sustainable building" means either a
6 sustainable commercial building or a sustainable residential
7 building;

8 (15) "sustainable commercial building" means
9 a multifamily dwelling unit, as registered and certified
10 under the LEED-H or build green New Mexico rating system,
11 that is certified by the United States green building council
12 as LEED-H silver or higher or by build green New Mexico as
13 silver or higher and has achieved a home energy rating system
14 index of sixty or lower as developed by the residential
15 energy services network or a building that has been
16 registered and certified under the LEED-NC, LEED-EB, LEED-CS
17 or LEED-CI rating system and that:

18 (a) is certified by the United States
19 green building council at LEED silver or higher;

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

24 (c) has reduced energy consumption, as
25 follows: 1) through 2011, a fifty percent energy reduction

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

10 (16) "sustainable residential building"

11 means:

12 (a) a building used as a single-family
13 residence as registered and certified under the build green
14 New Mexico or LEED-H rating systems that: 1) is certified by
15 the United States green building council as LEED-H silver or
16 higher or by build green New Mexico as silver or higher;
17 [~~and~~] 2) has achieved a home energy rating system index of
18 sixty or lower as developed by the residential energy
19 services network; and 3) for a sustainable residential
20 building certified on or after July 1, 2015, has indoor
21 plumbing fixtures and water-using appliances that, on
22 average, have flow rates equal to or lower than the flow
23 rates required for certification by WaterSense; and, if
24 landscape area is available at the front of the property, has
25 at least one water line that may be connected to a drip

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[bracketed material] = delete

1 irrigation system; or

2 (b) manufactured housing that is
3 ENERGY STAR-qualified by the United States environmental
4 protection agency; [~~and~~]

5 (17) "tribal" means of, belonging to or
6 created by a federally recognized Indian nation, tribe or
7 pueblo; and

8 (18) "WaterSense" means a program created by
9 the federal environmental protection agency that certifies
10 water-using products that meet the environmental protection
11 agency's criteria for efficiency and performance."

12 SECTION 3. A new section of the Income Tax Act is
13 enacted to read:

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

15 A. The tax credit provided by this section may be
16 referred to as the "new sustainable building tax credit".
17 The new sustainable building tax credit shall be available
18 for the construction in New Mexico of a sustainable building,
19 the renovation of an existing building in New Mexico into a
20 sustainable building or the permanent installation of
21 manufactured housing, regardless of where the housing is
22 manufactured, that is a sustainable building. The tax credit
23 provided in this section may not be claimed with respect to
24 the same sustainable building for which the new sustainable
25 building tax credit provided in the Corporate Income and

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1 Franchise Tax Act has been claimed.

2 B. The purpose of the new sustainable building tax
3 credit is to encourage the construction of sustainable
4 buildings and the renovation of existing buildings into
5 sustainable buildings.

6 C. A taxpayer who files an income tax return is
7 eligible to be granted a new sustainable building tax credit
8 by the department if the taxpayer submits a document issued
9 pursuant to Subsection K of this section with the taxpayer's
10 income tax return.

11 D. For taxable years ending on or before
12 December 31, 2026, the new sustainable building tax credit
13 may be claimed with respect to a sustainable commercial
14 building. The credit shall be calculated based on the
15 certification level the building has achieved in the LEED
16 green building rating system and the amount of qualified
17 occupied square footage in the building, as indicated on the
18 following chart:

19 LEED Rating Level	20 Qualified 21 Occupied 22 Square Footage	23 Tax Credit 24 per Square 25 Foot
22 LEED-NC Silver	23 First 10,000	24 \$3.50
	25 Next 40,000	\$1.75
	Over 50,000	
	up to 500,000	\$.70

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1	LEED-NC Gold	First 10,000	\$4.75
2		Next 40,000	\$2.00
3		Over 50,000	
4		up to 500,000	\$1.00
5	LEED-NC Platinum	First 10,000	\$6.25
6		Next 40,000	\$3.25
7		Over 50,000	
8		up to 500,000	\$2.00
9	LEED-EB or CS Silver	First 10,000	\$2.50
10		Next 40,000	\$1.25
11		Over 50,000	
12		up to 500,000	\$.50
13	LEED-EB or CS Gold	First 10,000	\$3.35
14		Next 40,000	\$1.40
15		Over 50,000	
16		up to 500,000	\$.70
17	LEED-EB or CS Platinum	First 10,000	\$4.40
18		Next 40,000	\$2.30
19		Over 50,000	
20		up to 500,000	\$1.40
21	LEED-CI Silver	First 10,000	\$1.40
22		Next 40,000	\$.70
23		Over 50,000	
24		up to 500,000	\$.30
25	LEED-CI Gold	First 10,000	\$1.90

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1		Next 40,000	\$.80
2		Over 50,000	
3		up to 500,000	\$.40
4	LEED-CI Platinum	First 10,000	\$2.50
5		Next 40,000	\$1.30
6		Over 50,000	
7		up to 500,000	\$.80.

8 E. For taxable years ending on or before December
9 31, 2026, the new sustainable building tax credit may be
10 claimed with respect to a sustainable residential building.
11 The credit shall be calculated based on the amount of
12 qualified occupied square footage, as indicated on the
13 following chart:

14	Rating System/Level	Qualified	Tax Credit
15		Occupied	per Square
16		Square Footage	Foot
17	LEED-H Silver or Build	Up to 2,000	\$3.00
18	Green NM Silver		
19	LEED-H Gold or Build	Up to 2,000	\$4.50
20	Green NM Gold		
21	LEED-H Platinum or Build	Up to 2,000	\$6.50
22	Green NM Emerald		
23	Manufactured Housing	Up to 2,000	\$3.00.

24 F. A person that is a building owner may apply for
25 a certificate of eligibility for the new sustainable building

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1 tax credit from the energy, minerals and natural resources
2 department after the construction, installation or renovation
3 of the sustainable building is complete. Applications shall
4 be considered in the order received. If the energy, minerals
5 and natural resources department determines that the building
6 owner meets the requirements of this subsection and that the
7 building with respect to which the tax credit application is
8 made meets the requirements of this section as a sustainable
9 residential building or a sustainable commercial building,
10 the energy, minerals and natural resources department may
11 issue a certificate of eligibility to the building owner,
12 subject to the limitations in Subsection G of this section.
13 The certificate shall include the rating system certification
14 level awarded to the building, the amount of qualified
15 occupied square footage in the building and a calculation of
16 the maximum amount of new sustainable building tax credit for
17 which the building owner would be eligible. The energy,
18 minerals and natural resources department may issue rules
19 governing the procedure for administering the provisions of
20 this subsection. If the certification level for the
21 sustainable residential building is awarded on or after
22 January 1, 2017, the energy, minerals and natural resources
23 department may issue a certificate of eligibility to a
24 building owner who is:

25 (1) the owner of the sustainable residential

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1 building at the time the certification level for the building
2 is awarded; or

3 (2) the subsequent purchaser of a
4 sustainable residential building with respect to which no tax
5 credit has been previously claimed.

6 G. Except as provided in Subsection H of this
7 section, the energy, minerals and natural resources
8 department may issue a certificate of eligibility only if the
9 total amount of new sustainable building tax credits
10 represented by certificates of eligibility issued by the
11 energy, minerals and natural resources department pursuant to
12 this section and pursuant to the Corporate Income and
13 Franchise Tax Act shall not exceed in any calendar year an
14 aggregate amount of:

15 (1) two million five hundred thousand
16 dollars (\$2,500,000) with respect to sustainable commercial
17 buildings;

18 (2) six million seven hundred fifty thousand
19 dollars (\$6,750,000) with respect to sustainable residential
20 buildings that are not manufactured housing; and

21 (3) seven hundred fifty thousand dollars
22 (\$750,000) with respect to sustainable residential buildings
23 that are manufactured housing.

24 H. For any taxable year that the energy, minerals
25 and natural resources department determines that applications

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[bracketed material] = delete

1 for sustainable building tax credits for any type of
2 sustainable building pursuant to Paragraph (1), (2) or (3) of
3 Subsection G of this section are less than the aggregate
4 limit for that type of sustainable building for that taxable
5 year, the energy, minerals and natural resources department
6 shall allow the difference between the aggregate limit and
7 the applications to be added to the aggregate limit of
8 another type of sustainable building for which applications
9 exceeded the aggregate limit for that taxable year. Any
10 excess not used in a taxable year shall not be carried
11 forward to subsequent taxable years.

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

23 J. To be eligible for the new sustainable
24 building tax credit, the building owner shall provide to the
25 taxation and revenue department a certificate of eligibility

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1 issued by the energy, minerals and natural resources
2 department pursuant to the requirements of Subsection F of
3 this section and any other information the taxation and
4 revenue department may require to determine the amount of the
5 tax credit for which the building owner is eligible.

6 K. If the requirements of this section have been
7 complied with, the department shall issue to the building
8 owner a document granting a new sustainable building tax
9 credit. The document shall be numbered for identification
10 and declare its date of issuance and the amount of the tax
11 credit allowed pursuant to this section. The document may be
12 submitted by the building owner with that taxpayer's income
13 tax return, if applicable, or may be sold, exchanged or
14 otherwise transferred to another taxpayer. The parties to
15 such a transaction shall notify the department of the sale,
16 exchange or transfer within ten days of the sale, exchange or
17 transfer.

18 L. If the total approved amount of all new
19 sustainable building tax credits for a taxpayer in a taxable
20 year represented by the documents issued pursuant to
21 Subsection K of this section is:

22 (1) less than one hundred thousand dollars
23 (\$100,000), a maximum of twenty-five thousand dollars
24 (\$25,000) shall be applied against the taxpayer's income tax
25 liability for the taxable year for which the credit is

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underscoring material = new
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1 approved and the next three subsequent taxable years as
2 needed depending on the amount of credit; or
3 (2) one hundred thousand dollars (\$100,000)
4 or more, increments of twenty-five percent of the total
5 credit amount in each of the four taxable years, including
6 the taxable year for which the credit is approved and the
7 three subsequent taxable years, shall be applied against the
8 taxpayer's income tax liability.

9 M. If the sum of all new sustainable building tax
10 credits that can be applied to a taxable year for a taxpayer,
11 calculated according to Paragraph (1) or (2) of Subsection L
12 of this section, exceeds the taxpayer's income tax liability
13 for that taxable year, the excess may be carried forward for
14 a period of up to seven years.

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

25 O. Married individuals who file separate returns

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1 for a taxable year in which they could have filed a joint
2 return may each claim only one-half of the new sustainable
3 building tax credit that would have been allowed on a joint
4 return.

5 P. The department shall compile an annual report
6 on the new sustainable building tax credit created pursuant
7 to this section that shall include the number of taxpayers
8 approved by the department to receive the tax credit, the
9 aggregate amount of tax credits approved and any other
10 information necessary to evaluate the effectiveness of the
11 tax credit. Beginning in 2019 and every three years
12 thereafter that the credit is in effect, the department shall
13 compile and present the annual reports to the revenue
14 stabilization and tax policy committee and the legislative
15 finance committee with an analysis of the effectiveness and
16 cost of the tax credit and whether the tax credit is
17 performing the purpose for which it was created.

18 Q. For the purposes of this section:

19 (1) "build green New Mexico rating system"
20 means the certification standards adopted by build green New
21 Mexico in November 2014, which include water conservation
22 standards;

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

25 (3) "LEED-CS" means the LEED rating system

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1 for the core and shell of buildings;

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

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

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

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

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

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

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

21 (11) "manufactured housing" means a
22 multisectioned home that is:

23 (a) a manufactured home or modular
24 home;

25 (b) a single-family dwelling with a

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~~[bracketed material] = delete~~

1 heated area of at least thirty-six feet by twenty-four feet
2 and a total area of at least eight hundred sixty-four square
3 feet;

4 (c) constructed in a factory to the
5 standards of the United States department of housing and
6 urban development, the National Manufactured Housing
7 Construction and Safety Standards Act of 1974 and the Housing
8 and Urban Development Zone Code 2 or New Mexico construction
9 codes up to the date of the unit's construction; and

10 (d) installed consistent with the
11 Manufactured Housing Act and rules adopted pursuant to that
12 act relating to permanent foundations;

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

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

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

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

23 (13) "person" does not include state, local
24 government, public school district or tribal agencies;

25 (14) "sustainable building" means either a

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underscored material = new
~~[bracketed material] = delete~~

1 sustainable commercial building or a sustainable residential
2 building;

3 (15) "sustainable commercial building" means
4 a multifamily dwelling unit, as registered and certified
5 under the LEED-H or build green New Mexico rating system,
6 that is certified by the United States green building council
7 as LEED-H silver or higher or by build green New Mexico as
8 silver or higher and has achieved a home energy rating system
9 index of sixty or lower as developed by the residential
10 energy services network or a building that has been
11 registered and certified under the LEED-NC, LEED-EB, LEED-CS
12 or LEED-CI rating system and that:

13 (a) is certified by the United States
14 green building council at LEED silver or higher;

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

19 (c) has reduced energy consumption
20 beginning January 1, 2012, by sixty percent based on the
21 national average for that building type as published by the
22 United States department of energy as substantiated by the
23 United States environmental protection agency target finder
24 energy performance results form, dated no sooner than the
25 schematic design phase of development;

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underscored material = new
~~[bracketed material] = delete~~

1 (16) "sustainable residential building"

2 means:

3 (a) a building used as a single-family
4 residence as registered and certified under the build green
5 New Mexico or LEED-H rating system that: 1) is certified by
6 the United States green building council as LEED-H silver or
7 higher or by build green New Mexico as silver or higher; 2)
8 has achieved a home energy rating system index of sixty or
9 lower as developed by the residential energy services
10 network; 3) has indoor plumbing fixtures and water-using
11 appliances that, on average, have flow rates equal to or
12 lower than the flow rates required for certification by
13 WaterSense; 4) if landscape area is available at the front of
14 the property, has at least one water line outside the
15 building below the frost line that may be connected to a drip
16 irrigation system; and 5) if landscape area is available at
17 the rear of the property, has at least one water line outside
18 the building below the frost line that may be connected to a
19 drip irrigation system; or

20 (b) manufactured housing that is
21 ENERGY STAR-qualified by the United States environmental
22 protection agency;

23 (17) "tribal" means of, belonging to or
24 created by a federally recognized Indian nation, tribe or
25 pueblo; and

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underscored material = new
[bracketed material] = delete

1 (18) "WaterSense" means a program created by
2 the federal environmental protection agency that certifies
3 water-using products that meet the environmental protection
4 agency's criteria for efficiency and performance."

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

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

8 A. The tax credit provided by this section may be
9 referred to as the "new sustainable building tax credit".

10 The new sustainable building tax credit shall be available
11 for the construction in New Mexico of a sustainable building,
12 the renovation of an existing building in New Mexico into a
13 sustainable building or the permanent installation of
14 manufactured housing, regardless of where the housing is
15 manufactured, that is a sustainable building. The tax credit
16 provided in this section may not be claimed with respect to
17 the same sustainable building for which the new sustainable
18 building tax credit provided in the Income Tax Act has been
19 claimed.

20 B. The purpose of the new sustainable building
21 tax credit is to encourage the construction of sustainable
22 buildings and the renovation of existing buildings into
23 sustainable buildings.

24 C. A taxpayer that files a corporate income tax
25 return is eligible to be granted a new sustainable building

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1 tax credit by the department if the taxpayer submits a
2 document issued pursuant to Subsection K of this section with
3 the taxpayer's corporate income tax return.

4 D. For taxable years ending on or before
5 December 31, 2026, the new sustainable building tax credit
6 may be claimed with respect to a sustainable commercial
7 building. The credit shall be calculated based on the
8 certification level the building has achieved in the LEED
9 green building rating system and the amount of qualified
10 occupied square footage in the building, as indicated on the
11 following chart:

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

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underscored material = new
~~[bracketed material] = delete~~

1		up to 500,000	\$2.00
2	LEED-EB or CS Silver	First 10,000	\$2.50
3		Next 40,000	\$1.25
4		Over 50,000	
5		up to 500,000	\$.50
6	LEED-EB or CS Gold	First 10,000	\$3.35
7		Next 40,000	\$1.40
8		Over 50,000	
9		up to 500,000	\$.70
10	LEED-EB or CS		
11	Platinum	First 10,000	\$4.40
12		Next 40,000	\$2.30
13		Over 50,000	
14		up to 500,000	\$1.40
15	LEED-CI Silver	First 10,000	\$1.40
16		Next 40,000	\$.70
17		Over 50,000	
18		up to 500,000	\$.30
19	LEED-CI Gold	First 10,000	\$1.90
20		Next 40,000	\$.80
21		Over 50,000	
22		up to 500,000	\$.40
23	LEED-CI Platinum	First 10,000	\$2.50
24		Next 40,000	\$1.30
25		Over 50,000	

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1 up to 500,000 \$.80.

2 E. For taxable years ending on or before
3 December 31, 2026, the new sustainable building tax credit
4 may be claimed with respect to a sustainable residential
5 building. The credit shall be calculated based on the amount
6 of qualified occupied square footage, as indicated on the
7 following chart:

8 Rating System/Level	9 Qualified Occupied	10 Tax Credit per Square Foot
11 LEED-H Silver or Build	12 Up to 2,000	13 \$3.00
14 Green NM Silver		
15 LEED-H Gold or Build	16 Up to 2,000	17 \$4.50
18 Green NM Gold		
19 LEED-H Platinum or Build	20 Up to 2,000	21 \$6.50
22 Green NM Emerald		
23 Manufactured Housing	24 Up to 2,000	25 \$3.00.

18 F. A person that is a building owner may apply
19 for a certificate of eligibility for the new sustainable
20 building tax credit from the energy, minerals and natural
21 resources department after the construction, installation or
22 renovation of the sustainable building is complete.
23 Applications shall be considered in the order received. If
24 the energy, minerals and natural resources department
25 determines that the building owner meets the requirements of

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1 this subsection and that the building with respect to which
2 the tax credit application is made meets the requirements of
3 this section as a sustainable residential building or a
4 sustainable commercial building, the energy, minerals and
5 natural resources department may issue a certificate of
6 eligibility to the building owner, subject to the limitations
7 in Subsection G of this section. The certificate shall
8 include the rating system certification level awarded to the
9 building, the amount of qualified occupied square footage in
10 the building and a calculation of the maximum amount of new
11 sustainable building tax credit for which the building owner
12 would be eligible. The energy, minerals and natural
13 resources department may issue rules governing the procedure
14 for administering the provisions of this subsection. If the
15 certification level for the sustainable residential building
16 is awarded on or after January 1, 2017, the energy, minerals
17 and natural resources department may issue a certificate of
18 eligibility to a building owner who is:

19 (1) the owner of the sustainable residential
20 building at the time the certification level for the building
21 is awarded; or

22 (2) the subsequent purchaser of a
23 sustainable residential building with respect to which no tax
24 credit has been previously claimed.

25 G. Except as provided in Subsection H of this

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1 section, the energy, minerals and natural resources
2 department may issue a certificate of eligibility only if the
3 total amount of new sustainable building tax credits
4 represented by certificates of eligibility issued by the
5 energy, minerals and natural resources department pursuant to
6 this section and pursuant to the Income Tax Act shall not
7 exceed in any calendar year an aggregate amount of:

8 (1) two million five hundred thousand
9 dollars (\$2,500,000) with respect to sustainable commercial
10 buildings;

11 (2) six million seven hundred fifty thousand
12 dollars (\$6,750,000) with respect to sustainable residential
13 buildings that are not manufactured housing; and

14 (3) seven hundred fifty thousand dollars
15 (\$750,000) with respect to sustainable residential buildings
16 that are manufactured housing.

17 H. For any taxable year that the energy, minerals
18 and natural resources department determines that applications
19 for sustainable building tax credits for any type of
20 sustainable building pursuant to Paragraph (1), (2) or (3) of
21 Subsection G of this section are less than the aggregate
22 limit for that type of sustainable building for that taxable
23 year, the energy, minerals and natural resources department
24 shall allow the difference between the aggregate limit and
25 the applications to be added to the aggregate limit of

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1 another type of sustainable building for which applications
2 exceeded the aggregate limit for that taxable year. Any
3 excess not used in a taxable year shall not be carried
4 forward to subsequent taxable years.

5 I. Installation of a solar thermal system or a
6 photovoltaic system eligible for the solar market development
7 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
8 used as a component of qualification for the rating system
9 certification level used in determining eligibility for the
10 new sustainable building tax credit, unless a solar market
11 development tax credit pursuant to Section 7-2-18.14 NMSA
12 1978 has not been claimed with respect to that system and the
13 building owner and the taxpayer claiming the new sustainable
14 building tax credit certify that such a tax credit will not
15 be claimed with respect to that system.

16 J. To be eligible for the new sustainable
17 building tax credit, the building owner shall provide to the
18 taxation and revenue department a certificate of eligibility
19 issued by the energy, minerals and natural resources
20 department pursuant to the requirements of Subsection F of
21 this section and any other information the taxation and
22 revenue department may require to determine the amount of the
23 tax credit for which the building owner is eligible.

24 K. If the requirements of this section have been
25 complied with, the department shall issue to the building

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1 owner a document granting a new sustainable building tax
2 credit. The document shall be numbered for identification
3 and declare its date of issuance and the amount of the tax
4 credit allowed pursuant to this section. The document may be
5 submitted by the building owner with that taxpayer's income
6 tax return, if applicable, or may be sold, exchanged or
7 otherwise transferred to another taxpayer. The parties to
8 such a transaction shall notify the department of the sale,
9 exchange or transfer within ten days of the sale, exchange or
10 transfer.

11 L. If the total approved amount of all new
12 sustainable building tax credits for a taxpayer in a taxable
13 year represented by the documents issued pursuant to
14 Subsection K of this section is:

15 (1) less than one hundred thousand dollars
16 (\$100,000), a maximum of twenty-five thousand dollars
17 (\$25,000) shall be applied against the taxpayer's corporate
18 income tax liability for the taxable year for which the
19 credit is approved and the next three subsequent taxable
20 years as needed depending on the amount of credit; or

21 (2) one hundred thousand dollars (\$100,000)
22 or more, increments of twenty-five percent of the total
23 credit amount in each of the four taxable years, including
24 the taxable year for which the credit is approved and the
25 three subsequent taxable years, shall be applied against the

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1 taxpayer's corporate income tax liability.

2 M. If the sum of all new sustainable building tax
3 credits that can be applied to a taxable year for a taxpayer,
4 calculated according to Paragraph (1) or (2) of Subsection L
5 of this section, exceeds the taxpayer's corporate income tax
6 liability for that taxable year, the excess may be carried
7 forward for a period of up to seven years.

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

18 O. The department shall compile an annual report
19 on the new sustainable building tax credit created pursuant
20 to this section that shall include the number of taxpayers
21 approved by the department to receive the tax credit, the
22 aggregate amount of tax credits approved and any other
23 information necessary to evaluate the effectiveness of the
24 tax credit. Beginning in 2019 and every three years
25 thereafter that the credit is in effect, the department shall

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1 compile and present the annual reports to the revenue
2 stabilization and tax policy committee and the legislative
3 finance committee with an analysis of the effectiveness and
4 cost of the tax credit and whether the tax credit is
5 performing the purpose for which it was created.

6 P. For the purposes of this section:

7 (1) "build green New Mexico rating system"
8 means the certification standards adopted by build green New
9 Mexico in November 2014, which include water conservation
10 standards;

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

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

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

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

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

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

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

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

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

9 (11) "manufactured housing" means a
10 multisectioned home that is:

11 (a) a manufactured home or modular
12 home;

13 (b) a single-family dwelling with a
14 heated area of at least thirty-six feet by twenty-four feet
15 and a total area of at least eight hundred sixty-four square
16 feet;

17 (c) constructed in a factory to the
18 standards of the United States department of housing and
19 urban development, the National Manufactured Housing
20 Construction and Safety Standards Act of 1974 and the Housing
21 and Urban Development Zone Code 2 or New Mexico construction
22 codes up to the date of the unit's construction; and

23 (d) installed consistent with the
24 Manufactured Housing Act and rules adopted pursuant to that
25 act relating to permanent foundations;

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

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

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

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

11 (13) "person" does not include state, local
12 government, public school district or tribal agencies;

13 (14) "sustainable building" means either a
14 sustainable commercial building or a sustainable residential
15 building;

16 (15) "sustainable commercial building" means
17 a multifamily dwelling unit, as registered and certified
18 under the LEED-H or build green New Mexico rating system,
19 that is certified by the United States green building council
20 as LEED-H silver or higher or by build green New Mexico as
21 silver or higher and has achieved a home energy rating system
22 index of sixty or lower as developed by the residential
23 energy services network or a building that has been
24 registered and certified under the LEED-NC, LEED-EB, LEED-CS
25 or LEED-CI rating system and that:

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1 (a) is certified by the United States
2 green building council at LEED silver or higher;

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

7 (c) has reduced energy consumption
8 beginning January 1, 2012, by sixty percent based on the
9 national average for that building type as published by the
10 United States department of energy as substantiated by the
11 United States environmental protection agency target finder
12 energy performance results form, dated no sooner than the
13 schematic design phase of development;

14 (16) "sustainable residential building"
15 means:

16 (a) a building used as a single-family
17 residence as registered and certified under the build green
18 New Mexico or LEED-H rating systems that: 1) is certified by
19 the United States green building council as LEED-H silver or
20 higher or by build green New Mexico as silver or higher; 2)
21 has achieved a home energy rating system index of sixty or
22 lower as developed by the residential energy services
23 network; 3) has indoor plumbing fixtures and water-using
24 appliances that, on average, have flow rates equal to or
25 lower than the flow rates required for certification by

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1 WaterSense; 4) if landscape area is available at the front of
2 the property, has at least one water line outside the
3 building below the frost line that may be connected to a drip
4 irrigation system; and 5) if landscape area is available at
5 the rear of the property, has at least one water line outside
6 the building below the frost line that may be connected to a
7 drip irrigation system; or

8 (b) manufactured housing that is
9 ENERGY STAR-qualified by the United States environmental
10 protection agency;

11 (17) "tribal" means of, belonging to or
12 created by a federally recognized Indian nation, tribe or
13 pueblo; and

14 (18) "WaterSense" means a program created by
15 the federal environmental protection agency that certifies
16 water-using products that meet the environmental protection
17 agency's criteria for efficiency and performance."

18 **SECTION 5. APPLICABILITY--SUSTAINABLE BUILDING TAX**
19 CREDIT.--The provisions of Sections 1 and 2 of this act apply
20 to taxable years beginning on or after January 1, 2015.

21 **SECTION 6. APPLICABILITY--NEW SUSTAINABLE BUILDING TAX**
22 CREDIT.--The provisions of Sections 3 and 4 of this act apply
23 to taxable years beginning on or after January 1, 2017.