

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 279

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

AN ACT

RELATING TO TAXATION; CREATING A NEW SUSTAINABLE BUILDING TAX  
CREDIT WITH WATER CONSERVATION REQUIREMENTS PURSUANT TO THE  
INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT.

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

SECTION 1. A new section of the Income Tax Act is enacted  
to read:

"~~NEW MATERIAL~~ NEW SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be  
referred to as the "new sustainable building tax credit". The  
new sustainable building tax credit shall be available for the  
construction in New Mexico of a sustainable building, the  
renovation of an existing building in New Mexico into a  
sustainable building or the permanent installation of  
manufactured housing, regardless of where the housing is

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1 manufactured, that is a sustainable building. The tax credit  
2 provided in this section may not be claimed with respect to the  
3 same sustainable building for which the new sustainable  
4 building tax credit provided in the Corporate Income and  
5 Franchise Tax Act has been claimed.

6 B. The purpose of the new sustainable building tax  
7 credit is to encourage the construction of sustainable  
8 buildings and the renovation of existing buildings into  
9 sustainable buildings.

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

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

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50

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1		Next 40,000	\$1.75
2		Over 50,000	
3		up to 500,000	\$ .70
4	LEED-NC Gold	First 10,000	\$4.75
5		Next 40,000	\$2.00
6		Over 50,000	
7		up to 500,000	\$1.00
8	LEED-NC Platinum	First 10,000	\$6.25
9		Next 40,000	\$3.25
10		Over 50,000	
11		up to 500,000	\$2.00
12	LEED-EB or CS Silver	First 10,000	\$2.50
13		Next 40,000	\$1.25
14		Over 50,000	
15		up to 500,000	\$ .50
16	LEED-EB or CS Gold	First 10,000	\$3.35
17		Next 40,000	\$1.40
18		Over 50,000	
19		up to 500,000	\$ .70
20	LEED-EB or CS Platinum	First 10,000	\$4.40
21		Next 40,000	\$2.30
22		Over 50,000	
23		up to 500,000	\$1.40
24	LEED-CI Silver	First 10,000	\$1.40
25		Next 40,000	\$ .70

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1		Over 50,000	
2		up to 500,000	\$ .30
3	LEED-CI Gold	First 10,000	\$1.90
4		Next 40,000	\$ .80
5		Over 50,000	
6		up to 500,000	\$ .40
7	LEED-CI Platinum	First 10,000	\$2.50
8		Next 40,000	\$1.30
9		Over 50,000	
10		up to 500,000	\$ .80.

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

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

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 [bracketed material] = delete

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

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1 (1) the owner of the sustainable residential  
2 building at the time the certification level for the building  
3 is awarded; or

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

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

15 (1) one million two hundred fifty thousand  
16 dollars (\$1,250,000) with respect to sustainable commercial  
17 buildings;

18 (2) three million three hundred seventy-five  
19 thousand dollars (\$3,375,000) with respect to sustainable  
20 residential buildings that are not manufactured housing; and

21 (3) three hundred seventy-five thousand  
22 dollars (\$375,000) with respect to sustainable residential  
23 buildings that are manufactured housing.

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

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 limit  
4 for that type of sustainable building for that taxable year,  
5 the energy, minerals and natural resources department shall  
6 allow the difference between the aggregate limit and the  
7 applications to be added to the aggregate limit of another type  
8 of sustainable building for which applications exceeded the  
9 aggregate limit for that taxable year. Any excess not used in  
10 a taxable year shall not be carried forward to subsequent  
11 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 new  
17 sustainable building tax credit, unless a solar market  
18 development tax credit pursuant to Section 7-2-18.14 NMSA 1978  
19 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 be  
22 claimed with respect to that system.

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

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

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

17 L. If the approved amount of a new sustainable  
18 building tax credit for a taxpayer in a taxable year  
19 represented by a document issued pursuant to Subsection K of  
20 this section is:

21 (1) less than one hundred thousand dollars  
22 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)  
23 shall be applied against the taxpayer's income tax liability  
24 for the taxable year for which the credit is approved and the  
25 next three subsequent taxable years as needed depending on the

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1 amount of credit; or

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

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

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

24 O. Married individuals who file separate returns  
25 for a taxable year in which they could have filed a joint

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1 return may each claim only one-half of the new sustainable  
2 building tax credit that would have been allowed on a joint  
3 return.

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

17 Q. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

22 (a) a manufactured home or modular home;

23 (b) a single-family dwelling with a  
24 heated area of at least thirty-six feet by twenty-four feet and  
25 a total area of at least eight hundred sixty-four square feet;

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

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

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

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

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

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

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

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

24 (15) "sustainable commercial building" means a  
25 multifamily dwelling unit, as registered and certified under

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

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

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

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

21 (16) "sustainable residential building" means:

22 (a) a building used as a single-family  
 23 residence as registered and certified under the build green New  
 24 Mexico or LEED-H rating system that: 1) is certified by the  
 25 United States green building council as LEED-H silver or higher

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1 or by build green New Mexico as silver or higher; 2) has  
2 achieved a home energy rating system index of sixty or lower as  
3 developed by the residential energy services network; 3) has  
4 indoor plumbing fixtures and water-using appliances that, on  
5 average, have flow rates equal to or lower than the flow rates  
6 required for certification by WaterSense; 4) if landscape area  
7 is available at the front of the property, has at least one  
8 water line outside the building below the frost line that may  
9 be connected to a drip irrigation system; and 5) if landscape  
10 area is available at the rear of the property, has at least one  
11 water line outside the building below the frost line that may  
12 be connected to a drip irrigation system; or

13 (b) manufactured housing that is ENERGY  
14 STAR-qualified by the United States environmental protection  
15 agency;

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

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

23 SECTION 2. A new section of the Corporate Income and  
24 Franchise Tax Act is enacted to read:

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

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

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

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

22           D. For taxable years ending on or before  
23 December 31, 2026, the new sustainable building tax credit may  
24 be claimed with respect to a sustainable commercial building.  
25 The credit shall be calculated based on the certification level

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1 the building has achieved in the LEED green building rating  
 2 system and the amount of qualified occupied square footage in  
 3 the building, as indicated on the following chart:

4 LEED Rating Level	5 Qualified Occupied	6 Tax Credit per Square Foot
7 LEED-NC Silver	8 First 10,000	\$3.50
	9 Next 40,000	\$1.75
	10 Over 50,000	
	11 up to 500,000	\$ .70
12 LEED-NC Gold	13 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	18 First 10,000	\$6.25
	19 Next 40,000	\$3.25
	20 Over 50,000	
	21 up to 500,000	\$2.00
22 LEED-EB or CS Silver	23 First 10,000	\$2.50
	24 Next 40,000	\$1.25
	25 Over 50,000	
	up to 500,000	\$ .50
26 LEED-EB or CS Gold	27 First 10,000	\$3.35
	28 Next 40,000	\$1.40
	29 Over 50,000	

underscored material = new  
 [bracketed material] = delete



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

19 E. For taxable years ending on or before  
20 December 31, 2026, the new sustainable building tax credit  
21 may be claimed with respect to a sustainable residential  
22 building. The credit shall be calculated based on the amount  
23 of qualified occupied square footage, as indicated on the  
24 following chart:

25	Rating System/Level	Qualified	Tax Credit
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	Occupied	per Square
	Square Footage	Foot
LEED-H Silver or Build	Up to 2,000	\$3.00
Green NM Silver		
LEED-H Gold or Build	Up to 2,000	\$4.50
Green NM Gold		
LEED-H Platinum or Build	Up to 2,000	\$6.50
Green NM Emerald		
Manufactured Housing	Up to 2,000	\$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the new sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the

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underscored material = new  
 [bracketed material] = delete

1 building, the amount of qualified occupied square footage in  
2 the building and a calculation of the maximum amount of new  
3 sustainable building tax credit for which the building owner  
4 would be eligible. The energy, minerals and natural  
5 resources department may issue rules governing the procedure  
6 for administering the provisions of this subsection. If the  
7 certification level for the sustainable residential building  
8 is awarded on or after January 1, 2017, the energy, minerals  
9 and natural resources department may issue a certificate of  
10 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  
15 sustainable residential building with respect to which no tax  
16 credit has been previously claimed.

17 G. Except as provided in Subsection H of this  
18 section, the energy, minerals and natural resources  
19 department may issue a certificate of eligibility only if the  
20 total amount of new sustainable building tax credits  
21 represented by certificates of eligibility issued by the  
22 energy, minerals and natural resources department pursuant to  
23 this section and pursuant to the Income Tax Act shall not  
24 exceed in any calendar year an aggregate amount of:

25 (1) one million two hundred fifty thousand

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1 dollars (\$1,250,000) with respect to sustainable commercial  
2 buildings;

3 (2) three million three hundred seventy-five  
4 thousand dollars (\$3,375,000) with respect to sustainable  
5 residential buildings that are not manufactured housing; and

6 (3) three hundred seventy-five thousand  
7 dollars (\$375,000) with respect to sustainable residential  
8 buildings that are manufactured housing.

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

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

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

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

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

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1 exchange or transfer within ten days of the sale, exchange or  
2 transfer.

3 L. If the approved amount of a new sustainable  
4 building tax credit for a taxpayer in a taxable year  
5 represented by a document issued pursuant to Subsection K of  
6 this section is:

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

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

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

25 N. A taxpayer that otherwise qualifies and claims

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

23 P. For the purposes of this section:

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

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1 Mexico in November 2014, which include water conservation  
2 standards;

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

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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  
25 beginning January 1, 2012, by sixty percent based on the

1 national average for that building type as published by the  
2 United States department of energy as substantiated by the  
3 United States environmental protection agency target finder  
4 energy performance results form, dated no sooner than the  
5 schematic design phase of development;

6 (16) "sustainable residential building"

7 means:

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

25 (b) manufactured housing that is

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1 ENERGY STAR-qualified by the United States environmental  
2 protection agency;

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

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

10 SECTION 3. APPLICABILITY.--The provisions of this act  
11 apply to taxable years beginning on or after January 1, 2017.