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SENATE BILL 566

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO TAXATION; CREATING EFFICIENT COMMERCIAL BUILDING
TAX CREDITS.

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] EFFICIENT COMMERCIAL BUILDING INCOME TAX
CREDIT.--

A. A taxpayer who is not a dependent of another
individual and who constructs an efficient commercial building
in New Mexico or who renovates a building in New Mexico to make
it an efficient commercial building on or after July 1, 2014
and prior to July 1, 2019 is eligible for a credit equal to one
dollar eighty cents (\$1.80) per square foot of qualified
building floor area. A taxpayer may claim the credit for the

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1 taxable year in which or within one taxable year after which
2 the taxpayer finishes construction or renovation. The credit
3 provided by this section may be referred to as the "efficient
4 commercial building income tax credit".

5 B. The purpose of the efficient commercial building
6 income tax credit is to encourage the use of energy efficient
7 technologies in new and existing buildings, reduce energy
8 consumption and costs and promote job and revenue growth.

9 C. That portion of the efficient commercial
10 building income tax credit allowed by the department that
11 exceeds a taxpayer's income tax liability in the taxable year
12 in which the credit is claimed shall not be refunded to the
13 taxpayer. If the amount of the credit exceeds the taxpayer's
14 tax liability for that taxable year, the excess may be carried
15 forward for five consecutive years. The credit shall not be
16 transferred to another taxpayer.

17 D. A husband and wife who file separate returns for
18 a taxable year for which they could have filed a joint return
19 may each claim only one-half of the efficient commercial
20 building income tax credit that would have been claimed on a
21 joint return.

22 E. A taxpayer may be allocated the right to claim
23 an efficient commercial building income tax credit in
24 proportion to the taxpayer's ownership interest if the taxpayer
25 owns an interest in a business entity that is taxed for federal

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1 income tax purposes as a partnership. The total credit claimed
2 by all members of the partnership or limited liability company
3 shall not exceed the credit allowed pursuant to Subsection A of
4 this section.

5 F. A taxpayer who claims the efficient commercial
6 building income tax credit is ineligible for any other credit
7 that may be taken for the same building construction or
8 renovation. A credit shall not exceed five million dollars
9 (\$5,000,000) in any taxable year.

10 G. The energy, minerals and natural resources
11 department shall adopt rules establishing procedures for
12 certification of a taxpayer who wishes to claim the efficient
13 commercial building income tax credit and designating the
14 computer modeling software that may be used to calculate energy
15 and power consumption. The energy, minerals and natural
16 resources department shall issue to a qualifying taxpayer a
17 dated certificate of eligibility stating information
18 identifying the taxpayer, the amount of credit for which the
19 taxpayer is eligible and any other information required by the
20 taxation and revenue department. Certificates of eligibility
21 shall be sequentially numbered. The energy, minerals and
22 natural resources department shall maintain an account of all
23 issued and destroyed certificates. The taxation and revenue
24 department shall periodically audit the records related to the
25 credit and maintained by the energy, minerals and natural

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1 resources department to ensure that the credit is being
2 administered effectively and in compliance with the Tax
3 Administration Act and this section.

4 H. To claim an efficient commercial building income
5 tax credit, the taxpayer shall provide to the department a
6 certificate of eligibility. If the provisions of this section
7 have been complied with, the department shall allow the credit.

8 I. The department shall annually report the number
9 of taxpayers who have claimed the efficient commercial building
10 income tax credit. If otherwise lawful, the department may
11 disclose to the revenue stabilization and tax policy committee
12 the number of applicants for the credit, the amount of each
13 credit claimed, the number of buildings constructed or
14 renovated, the total annual amount of credits claimed and
15 information that helps in evaluating the effectiveness of the
16 credit.

17 J. In 2018, the revenue stabilization and tax
18 policy committee shall review the effectiveness of the
19 efficient commercial building income tax credit.

20 K. As used in this section, "efficient commercial
21 building" means a building:

22 (1) for which efficiency measures are
23 implemented as part of a plan designed to reduce by fifty
24 percent or more, compared with a reference building that meets
25 the minimum requirements of ASHRAE Standard 90.1-2004, the

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1 total annual energy and power costs of the interior lighting
2 systems, heating, cooling, ventilation and hot water systems of
3 the entire building; provided that reductions from other energy
4 uses, such as receptacles, process loads, refrigeration,
5 cooking and elevators, do not count toward the reduction
6 measure;

7 (2) for which efficiency measures are
8 implemented in the:

9 (a) interior lighting systems;
10 (b) heating, cooling, ventilation and
11 hot water systems; or

12 (c) building envelope; and

13 (3) that is certified by a professional
14 engineer and the energy, minerals and natural resources
15 department as meeting the requirements of Paragraphs (1) and
16 (2) of this subsection."

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

19 "[NEW MATERIAL] EFFICIENT COMMERCIAL BUILDING CORPORATE
20 INCOME TAX CREDIT.--

21 A. A taxpayer that constructs an efficient
22 commercial building in New Mexico or that renovates a building
23 in New Mexico to make it an efficient commercial building on or
24 after July 1, 2014 and prior to July 1, 2019 is eligible for a
25 credit equal to one dollar eighty cents (\$1.80) per square foot

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1 of qualified building floor area. A taxpayer may claim the
2 credit for the taxable year in which or within one taxable year
3 after which the taxpayer finishes construction or renovation.
4 The credit provided by this section may be referred to as the
5 "efficient commercial building corporate income tax credit".

6 B. The purpose of the efficient commercial building
7 corporate income tax credit is to encourage the use of energy
8 efficient technologies in new and existing buildings, reduce
9 energy consumption and costs and promote job and revenue
10 growth.

11 C. That portion of the efficient commercial
12 building corporate income tax credit allowed by the department
13 that exceeds a taxpayer's corporate income tax liability in the
14 taxable year in which the credit is claimed shall not be
15 refunded to the taxpayer. If the amount of the credit exceeds
16 the taxpayer's tax liability for that taxable year, the excess
17 may be carried forward for five consecutive years. The credit
18 shall not be transferred to another taxpayer.

19 D. A taxpayer that claims the efficient commercial
20 building corporate income tax credit is ineligible for any
21 other credit that may be taken for the same building
22 construction or renovation. A credit shall not exceed five
23 million dollars (\$5,000,000) in any taxable year.

24 E. The energy, minerals and natural resources
25 department shall adopt rules establishing procedures for

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1 certification of a taxpayer that wishes to claim the efficient
2 commercial building corporate income tax credit and designating
3 the computer modeling software that may be used to calculate
4 energy and power consumption. The energy, minerals and natural
5 resources department shall issue to a qualifying taxpayer a
6 dated certificate of eligibility stating information
7 identifying the taxpayer, the amount of credit for which the
8 taxpayer is eligible and any other information required by the
9 taxation and revenue department. Certificates of eligibility
10 shall be sequentially numbered. The energy, minerals and
11 natural resources department shall maintain an account of all
12 issued and destroyed certificates. The taxation and revenue
13 department shall periodically audit the records related to the
14 credit and maintained by the energy, minerals and natural
15 resources department to ensure that the credit is being
16 administered effectively and in compliance with the Tax
17 Administration Act and this section.

18 F. To claim an efficient commercial building
19 corporate income tax credit, the taxpayer shall provide to the
20 department a certificate of eligibility. If the provisions of
21 this section have been complied with, the department shall
22 allow the credit.

23 G. The department shall annually report the number
24 of taxpayers that have claimed the efficient commercial
25 building corporate income tax credit. If otherwise lawful, the

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1 department may disclose to the revenue stabilization and tax
2 policy committee the number of applicants for the credit, the
3 amount of each credit claimed, the number of buildings
4 constructed or renovated, the total annual amount of credits
5 claimed and information that helps in evaluating the
6 effectiveness of the credit.

7 H. In 2018, the revenue stabilization and tax
8 policy committee shall review the effectiveness of the
9 efficient commercial building corporate income tax credit.

10 I. As used in this section, "efficient commercial
11 building" means a building:

12 (1) for which efficiency measures are
13 implemented as part of a plan designed to reduce by fifty
14 percent or more, compared with a reference building that meets
15 the minimum requirements of ASHRAE Standard 90.1-2004, the
16 total annual energy and power costs of the interior lighting
17 systems, heating, cooling, ventilation and hot water systems of
18 the entire building; provided that reductions from other energy
19 uses, such as receptacles, process loads, refrigeration,
20 cooking and elevators, do not count toward the reduction
21 measure;

22 (2) for which efficiency measures are
23 implemented in the:

- 24 (a) interior lighting systems;
25 (b) heating, cooling, ventilation and

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1 hot water systems; or
2 (c) building envelope; and
3 (3) that is certified by a professional
4 engineer and the energy, minerals and natural resources
5 department as meeting the requirements of Paragraphs (1) and
6 (2) of this subsection."