SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 14

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

AN ACT
RELATING TO TAXATION; EXTENDING THE SUSTAINABLE BUILDING TAX
CREDIT FOR THREE YEARS; CHANGING PROVISIONS FOR APPLICATION OF
THE CREDIT AGAINST TAX LIABILITY.

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

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

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

A. The tax credit provided by this section may be
referred to as the "sustainable building tax credit". The
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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manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Corporate Income and Franchise Tax Act has been claimed.

B. A taxpayer who files an income tax return is eligible to be granted a sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection I of this section with the taxpayer's income tax return.

C. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

<table>
<thead>
<tr>
<th>LEED Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit per Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Silver</td>
<td>First 10,000</td>
<td>$3.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.75</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$.70</td>
</tr>
<tr>
<td></td>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
</tr>
<tr>
<td>---</td>
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<td>--------------</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.00</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$3.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$2.00</td>
</tr>
<tr>
<td></td>
<td>LEED-EB or CS Silver</td>
<td>First 10,000</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$.50</td>
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<td>First 10,000</td>
</tr>
<tr>
<td></td>
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<td>$.70</td>
</tr>
<tr>
<td></td>
<td>LEED-EB or CS Platinum</td>
<td>First 10,000</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.30</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$1.40</td>
</tr>
<tr>
<td></td>
<td>LEED-CI Silver</td>
<td>First 10,000</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$.70</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$.30</td>
</tr>
<tr>
<td></td>
<td>LEED-CI Gold</td>
<td>First 10,000</td>
</tr>
</tbody>
</table>

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- 3 -
D. [The amount of] For taxable years ending on or before December 31, 2016, the sustainable building tax credit [that] may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

<table>
<thead>
<tr>
<th>Rating System/Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Silver or Build</td>
<td>First 2,000</td>
<td>$5.00</td>
</tr>
<tr>
<td>Green NM Silver</td>
<td>Next 1,000</td>
<td>$2.50</td>
</tr>
<tr>
<td>LEED-H Gold or Build</td>
<td>First 2,000</td>
<td>$6.85</td>
</tr>
<tr>
<td>Green NM Gold</td>
<td>Next 1,000</td>
<td>$3.40</td>
</tr>
<tr>
<td>LEED-H Platinum or Build</td>
<td>First 2,000</td>
<td>$9.00</td>
</tr>
<tr>
<td>Green NM Emerald</td>
<td>Next 1,000</td>
<td>$4.45</td>
</tr>
<tr>
<td>EPA ENERGY STAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Up to 3,000</td>
<td>$3.00.</td>
</tr>
</tbody>
</table>

E. A person that is a building owner may apply for
la certificate of eligibility for the 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 limitation in Subsection F of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2007, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

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

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

F. The energy, minerals and natural resources
department may issue a certificate of eligibility only if the
total amount of sustainable building tax credits represented by
certificates of eligibility issued by the energy, minerals and
natural resources department pursuant to this section and
pursuant to the Corporate Income and Franchise Tax Act shall
not exceed in any calendar year an aggregate amount of [five
million dollars ($5,000,000)] one million dollars ($1,000,000)
with respect to sustainable commercial buildings and an
aggregate amount of [five million dollars ($5,000,000)] four
million dollars ($4,000,000) with respect to sustainable
residential buildings; provided that no more than one million
two hundred fifty thousand dollars ($1,250,000) of the
aggregate amount with respect to sustainable residential
buildings shall be for manufactured housing. If for any
taxable year the energy, minerals and natural resources
department determines that the applications for sustainable
building tax credits with respect to sustainable residential
buildings for that taxable year exceed the aggregate limit set
in this section, the energy, minerals and natural resources
department may issue certificates of eligibility under the
aggregate annual limit for sustainable commercial buildings to
[building] owners of [multifamily dwelling units] sustainable
residential buildings that meet the requirements of the energy,
minerals and natural resources department and of this section;
provided that applications for sustainable building credits for
other sustainable commercial buildings total less than the full
amount allocated for tax credits for sustainable commercial
buildings.

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

H. To be eligible for the sustainable building tax
credit, the building owner shall provide to the taxation and
revenue department a certificate of eligibility issued by the
energy, minerals and natural resources department pursuant to
the requirements of Subsection E of this section and any other
information the taxation and revenue department may require to
determine the amount of the tax credit for which the building
owner is eligible.

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

   [J. Except as provided in Subsection K of this
section, the sustainable building tax credit represented by the
document issued pursuant to Subsection I of this section shall
be applied against the taxpayer's income tax liability for the
taxable year for which the credit is approved and the three
subsequent taxable years, in increments of twenty-five percent
of the total credit amount in each of the four taxable years.
If the amount of the credit available in a taxable year exceeds
the taxpayer's income tax liability for that taxable year, the
excess may be carried forward for up to seven years.

   K. If the total amount of a sustainable building
If the credit approved by the department is less than twenty-five thousand dollars ($25,000), the entire amount of the credit may be applied against the taxpayer's income tax liability for the taxable year for which the credit is approved. If the amount of the credit exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for up to seven years.

J. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection I of this section is:

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

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

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

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

M. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the sustainable building tax credit that would have been allowed on a joint return.

N. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;

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

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;
(4) "LEED-EB" means the LEED rating system for existing buildings;

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

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

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

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

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

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

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

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;
(c) constructed in a factory to the
standards of the United States department of housing and urban
development, the National Manufactured Housing Construction and
Safety Standards Act of 1974 and the Housing and Urban
Development Zone Code 2 or New Mexico construction codes up to
the date of the unit's construction; and
(d) installed consistent with the
Manufactured Housing Act and rules adopted pursuant to that act
relating to permanent foundations;

(12) "qualified occupied square footage" means
the occupied spaces of the building as determined by:
(a) the United States green building
council for those buildings obtaining LEED certification;
(b) the administrators of the build
green New Mexico rating system for those homes obtaining build
green New Mexico certification; and
(c) the United States environmental
protection agency for ENERGY STAR-certified manufactured homes;

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

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

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

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

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

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

(16) "sustainable residential building" means:
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(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

[(b)—a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

(e)] (b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency; and

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

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

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

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The
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
manufactured, that is a sustainable building. The tax credit
provided in this section may not be claimed with respect to the
same sustainable building for which the sustainable building
tax credit provided in the Income Tax Act has been claimed.

B. A taxpayer that files a corporate income tax
return is eligible to be granted a sustainable building tax
credit by the department if the taxpayer submits a document
issued pursuant to Subsection I of this section with the
taxpayer's corporate income tax return.

C. [The amount of] For taxable years ending on or
before December 31, 2016, the sustainable building tax credit
[that] may be claimed with respect to a sustainable commercial
building. The credit shall be calculated based on the
certification level the building has achieved in the LEED green
building rating system and the amount of qualified occupied
square footage in the building, as indicated on the following
chart:

<table>
<thead>
<tr>
<th>LEED Rating Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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- 15 -
<table>
<thead>
<tr>
<th></th>
<th>LEED-NC Silver</th>
<th>First 10,000</th>
<th>$3.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Next 40,000</td>
<td></td>
<td>$1.75</td>
</tr>
<tr>
<td>3</td>
<td>Over 50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>up to 500,000</td>
<td></td>
<td>$.70</td>
</tr>
<tr>
<td>5</td>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
<td>$4.75</td>
</tr>
<tr>
<td>6</td>
<td>Next 40,000</td>
<td></td>
<td>$2.00</td>
</tr>
<tr>
<td>7</td>
<td>Over 50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>up to 500,000</td>
<td></td>
<td>$1.00</td>
</tr>
<tr>
<td>9</td>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
<td>$6.25</td>
</tr>
<tr>
<td>10</td>
<td>Next 40,000</td>
<td></td>
<td>$3.25</td>
</tr>
<tr>
<td>11</td>
<td>Over 50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>up to 500,000</td>
<td></td>
<td>$2.00</td>
</tr>
<tr>
<td>13</td>
<td>LEED-EB or CS Silver</td>
<td>First 10,000</td>
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<tr>
<td>16</td>
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</tr>
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<td>Next 40,000</td>
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<tr>
<td>19</td>
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</tr>
<tr>
<td>20</td>
<td>up to 500,000</td>
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<tr>
<td>21</td>
<td>LEED-EB or CS</td>
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<tr>
<td>22</td>
<td>Platinum</td>
<td>First 10,000</td>
<td>$4.40</td>
</tr>
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<td>23</td>
<td>Next 40,000</td>
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<td>$2.30</td>
</tr>
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<td>24</td>
<td>Over 50,000</td>
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</tr>
<tr>
<td>25</td>
<td>up to 500,000</td>
<td></td>
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</tr>
</tbody>
</table>

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- 16 -
D. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

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<tr>
<td>LEED-H Gold or Build</td>
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<td>$6.85</td>
</tr>
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<td>Green NM Gold</td>
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<td>Manufactured Housing</td>
<td>Up to 3,000</td>
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</table>

E. A person that is a building owner may apply for a certificate of eligibility for the 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 limitation in Subsection F of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

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If the certification level for the sustainable residential building is awarded on or after January 1, 2007, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

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

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

F. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of [five million dollars ($5,000,000)] one million dollars ($1,000,000) with respect to sustainable commercial buildings and an aggregate amount of [five million dollars ($5,000,000)] four million dollars ($4,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars ($1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing. If for any taxable year the energy, minerals and
natural resources department determines that the applications for sustainable building tax credits with respect to sustainable residential buildings for that taxable year exceed the aggregate limit set in this section, the energy, minerals and natural resources department may issue certificates of eligibility under the aggregate annual limit for sustainable commercial buildings to [building] owners of [multifamily dwelling units] sustainable residential buildings that meet the requirements of the energy, minerals and natural resources department and of this section; provided that applications for sustainable building credits for other sustainable commercial buildings total less than the full amount allocated for tax credits for sustainable commercial buildings.

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

H. To be eligible for the sustainable building tax
credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection E of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

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

J. Except as provided in Subsection K of this section, the sustainable building tax credit represented by the document issued pursuant to Subsection I of this section shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the three subsequent taxable years, in increments of twenty-five percent of the total credit amount in each of the
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1. If the amount of the credit available in a taxable year exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for up to seven years.

K. If the total amount of a sustainable building tax credit approved by the department is less than twenty-five thousand dollars ($25,000), the entire amount of the credit may be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved. If the amount of the credit exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for up to seven years.

J. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection I of this section is:

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

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

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

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

M. For the purposes of this section:
   (1) "build green New Mexico rating system"
means the certification standards adopted by the homebuilders
association of central New Mexico;
   (2) "LEED-CI" means the LEED rating system for
commercial interiors;
   (3) "LEED-CS" means the LEED rating system for
the core and shell of buildings;

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

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

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

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

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

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

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

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

(a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a building used as a single-family residence as registered and certified under the Build Green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by Build Green New Mexico as silver or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

[(b) a multifamily dwelling unit, as registered and certified under the LEED-H or Build Green New Mexico rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by Build Green New Mexico as silver or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

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

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

SECTION 3. Laws 2007, Chapter 204, Section 21 is amended to read:

"Section 21. APPLICABILITY.--

A. The provisions of Sections [1 and 2 of this
Act 7-2-18.18 and 7-2A-19 NMSA 1978 apply to taxable years beginning on or after January 1, 2008.

[B. The provisions of Sections 3 and 4 of this act apply to taxable years beginning on or after January 1, 2007 through December 31, 2013.

C. The provisions of Sections 5 and 6 of this act 7-2-18.20 and 7-2A-22 NMSA 1978 apply to taxable years beginning on or after January 1, 2008 and ending on or before December 31, 2012."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.