



# City of Santa Fe, New Mexico

## LEGISLATIVE SUMMARY

Resolution No. 2015-\_\_

**Water Conservation Measures – SB 279 & SB 280**

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**SPONSOR(S):** Councilor Ives

**SUMMARY:** The resolution supports proposed state legislation, Senate Bill 279 (SB 279) and Senate Bill 280 (SB 280) – relating to water conservation measures.

**PREPARED BY:** Rebecca Seligman, Legislative Liaison Assistant

**FISCAL IMPACT:** No

**DATE:** February 17, 2015

**ATTACHMENTS:** Resolution  
FIR  
Senate Bill 279  
Senate Bill 280



1 sources and the city has many options available to meet the water supply needs of its residents; and

2 **WHEREAS**, the City of Santa Fe, the region of Northern New Mexico and the State of New  
3 Mexico continue to explore ways to manage residential consumption of water and power and to  
4 inspire the residents to care for our natural resources; and

5 **WHEREAS**, the city has an Emergency Water Regulation Ordinance, 25-5 SFCC 1987 that  
6 imposes major water restrictions to reduce demand that could cause economic hardship; and

7 **WHEREAS**, it has been reported to the City of Santa Fe Public Utilities Committee that our  
8 region is in the fourth consequent year of record drought and heat; and

9 **WHEREAS**, as it has been reported to the City of Santa Fe Public Utilities Committee, the  
10 City of Santa Fe's reservoir levels are at record lows.

11 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
12 **CITY OF SANTA FE** that the Governing Body hereby supports the passage of Senate Bill 279  
13 (SB 279) and Senate Bill 280 (SB 280) relating to water conservation measures to create a  
14 "sustainable building tax credit" and "water harvesting income tax credit".

15 **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this  
16 resolution to the City of Santa Fe lobbyist and the City of Santa Fe State Legislative Delegation.

17 PASSED, APPROVED, and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

18  
19 \_\_\_\_\_  
20 JAVIER M. GONZALES, MAYOR

21 ATTEST:

22  
23 \_\_\_\_\_  
24 YOLANDA Y. VIGIL, CITY CLERK  
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APPROVED AS TO FORM:

  
\_\_\_\_\_

KELLEY A. BRENNAN, CITY ATTORNEY

### City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

**Section A. General Information**

(Check) Bill: \_\_\_\_\_ Resolution:   X  

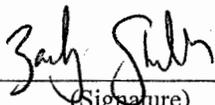
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): **A RESOLUTION SUPPORTING PROPOSED STATE LEGISLATION, SENATE BILL 279 (SB 279) AND SENATE BILL 280 (SB 280) – RELATING TO WATER CONSERVATION MEASURES.**

Sponsor(s): Councilor Ives

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman / Caryn Grosse Date: 2/17/15 Phone: 955-6501 / 955-4221

Reviewed by City Attorney:  Date: 2/17/15  
(Signature)

Reviewed by Finance Director:  Date: 2-17-2015  
(Signature)

**Section B. Summary**

Briefly explain the purpose and major provisions of the bill/resolution:

**The resolution supports proposed state legislation of Senate Bill 279 (SB 279) and Senate Bill 280 (SB 280) -- relating to water conservation measures.**

**Section C. Fiscal Impact**

**Note:** Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

**1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: \_\_\_\_\_

X  Check here if no fiscal impact

| Column #: | 1                          | 2        | 3   | 4   | 5        | 6   | 7   | 8             |
|-----------|----------------------------|----------|---|---|----------|---|---|---------------|
|           | Expenditure Classification | FY _____ | "A" Costs Absorbed or "N" New Budget Required | "R" Costs Recurring or "NR" Non-recurring | FY _____ | "A" Costs Absorbed or "N" New Budget Required | "R" Costs – Recurring or "NR" Non-recurring | Fund Affected |

|                           |          |       |       |          |       |       |       |       |
|---------------------------|----------|-------|-------|----------|-------|-------|-------|-------|
| Personnel*                | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| Fringe**                  | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| Capital Outlay            | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| Land/ Building            | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| Professional Services     | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| All Other Operating Costs | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |
| Total:                    | \$ _____ | _____ | _____ | \$ _____ | _____ | _____ | _____ | _____ |

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

| Column #: | 1               | 2        | 3   | 4        | 5   | 6             |
|-----------|-----------------|----------|---|----------|---|---------------|
|           | Type of Revenue | FY _____ | "R" Costs Recurring or "NR" Non-recurring | FY _____ | "R" Costs – Recurring or "NR" Non-recurring | Fund Affected |

|        |          |       |          |       |       |       |
|--------|----------|-------|----------|-------|-------|-------|
| _____  | \$ _____ | _____ | \$ _____ | _____ | _____ | _____ |
| _____  | \$ _____ | _____ | \$ _____ | _____ | _____ | _____ |
| _____  | \$ _____ | _____ | \$ _____ | _____ | _____ | _____ |
| Total: | \$ _____ | _____ | \$ _____ | _____ | _____ | _____ |

**3. Expenditure/Revenue Narrative:**

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

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**Section D.      General Narrative**

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None staff is aware of

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**2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

If this resolution is not enacted, the City of Santa Fe would not show its support for SB 279 and SB 280 relating to water conservation measures.

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**3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

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**4. Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The Governing Body, through the support of the proposed SB 279 and SB 280, expresses interest in creating water conservation measures which would potentially have a positive impact on our community.

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1 SENATE BILL 279

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

3 INTRODUCED BY

4 Peter Wirth and Carl Trujillo

5  
6  
7  
8  
9  
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<br>5 Occupied<br>6 Square Footage | 7 Tax Credit<br>8 per Square<br>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 \$ .70                              |
|                      | 17 up to 500,000                              | 18 \$ .70                              |
| 19 LEED-NC Gold      | 20 First 10,000                               | 21 \$4.75                              |
|                      | 22 Next 40,000                                | 23 \$2.00                              |
|                      | 24 Over 50,000                                | 25 \$1.00                              |
|                      | up to 500,000                                 | \$1.00                                 |
| LEED-NC Platinum     | First 10,000                                  | \$6.25                                 |
|                      | Next 40,000                                   | \$3.25                                 |
|                      | Over 50,000                                   | \$2.00                                 |
|                      | up to 500,000                                 | \$2.00                                 |
| LEED-EB or CS Silver | First 10,000                                  | \$2.50                                 |
|                      | Next 40,000                                   | \$1.25                                 |
|                      | Over 50,000                                   | \$ .50                                 |
|                      | up to 500,000                                 | \$ .50                                 |
| LEED-EB or CS Gold   | First 10,000                                  | \$3.35                                 |
|                      | Next 40,000                                   | \$1.40                                 |
|                      | Over 50,000                                   | \$ .70                                 |
|                      | up to 500,000                                 | \$ .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 | <del>[First]</del> <u>Up to</u> 2,000 | <del>[\$5.00]</del> |

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|    |                          |                                       |                     |
|----|--------------------------|---------------------------------------|---------------------|
| 1  |                          |                                       | <u>\$3.00</u>       |
| 2  | Green NM Silver          | <del>[Next 1,000]</del>               | <del>\$2.50]</del>  |
| 3  | LEED-H Gold or Build     | [First] <u>Up to 2,000</u>            | <del>[\$6.85]</del> |
| 4  |                          |                                       | <u>\$4.50</u>       |
| 5  | Green NM Gold            | <del>[Next 1,000]</del>               | <del>\$3.40]</del>  |
| 6  | LEED-H Platinum or Build | [First] <u>Up to 2,000</u>            | <del>[\$9.00]</del> |
| 7  |                          |                                       | <u>\$6.50</u>       |
| 8  | Green NM Emerald         | <del>[Next 1,000]</del>               | <del>\$4.45]</del>  |
| 9  | EPA ENERGY STAR          |                                       |                     |
| 10 | Manufactured Housing     | Up to <del>[3,000]</del> <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 [~~L.~~] 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    | [First] <u>Up to 2,000</u>              | 10 [ <del>\$5.00</del> |
|                             |   | 11 <u>\$3.00</u>       |
| 12 Green NM Silver          | [Next <del>1,000</del> ]                | 13 [ <del>\$2.50</del> |
| 14 LEED-H Gold or Build     | [First] <u>Up to 2,000</u>              | 15 [ <del>\$6.85</del> |
|                             |   | 16 <u>\$4.50</u>       |
| 17 Green NM Gold            | [Next <del>1,000</del> ]                | 18 [ <del>\$3.40</del> |
| 19 LEED-H Platinum or Build | [First] <u>Up to 2,000</u>              | 20 [ <del>\$9.00</del> |
|                             |   | 21 <u>\$6.50</u>       |
| 22 Green NM Emerald         | [Next <del>1,000</del> ]                | 23 [ <del>\$4.45</del> |
| 24 EPA ENERGY STAR          |   |                        |
| 25 Manufactured Housing     | Up to [ <del>3,000</del> ] <u>2,000</u> | \$3.00.                |

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

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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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[bracketed material] = delete

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           ~~[I.]~~ 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           ~~[J.]~~ 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 [~~L.~~] 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

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[bracketed material] = delete

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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[bracketed material] = delete

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<br>21 Occupied<br>22 Square Footage | 23 Tax Credit<br>24 per Square<br>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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[bracketed material] = delete

|    |                        |               |        |
|----|------------------------|---------------|--------|
| 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<br>Occupied<br>Square Footage | Tax Credit<br>per Square<br>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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underscored material = new  
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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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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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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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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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(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 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; 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

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

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

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

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|    |                      |               |        |
|----|----------------------|---------------|--------|
| 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.                    |

26 F. A person that is a building owner may apply  
27 for a certificate of eligibility for the new sustainable  
28 building tax credit from the energy, minerals and natural  
29 resources department after the construction, installation or  
30 renovation of the sustainable building is complete.  
31 Applications shall be considered in the order received. If  
32 the energy, minerals and natural resources department  
33 determines that the building owner meets the requirements of

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underscored material = new  
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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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[bracketed material] = delete

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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underscored material = new  
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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;

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underscored material = new  
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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.

1 SENATE BILL 280

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

3 INTRODUCED BY

4 Peter Wirth

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO TAXATION; CREATING THE WATER HARVESTING INCOME TAX  
12 CREDIT.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "NEW MATERIAL] WATER HARVESTING INCOME TAX CREDIT.--

18 A. A taxpayer who is not a dependent of another  
19 individual and who purchases and installs a certified water  
20 harvesting system after January 1, 2015 and before December 31,  
21 2025 in a residence or business in New Mexico owned by that  
22 taxpayer may apply for a tax credit against the taxpayer's tax  
23 liability imposed pursuant to the Income Tax Act in an amount  
24 up to twenty percent of the purchase and installation costs of  
25 the system. The tax credit provided by this section may be

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1 referred to as the "water harvesting income tax credit".

2 B. The purpose of the water harvesting income tax  
3 credit is to provide an incentive for homeowners and businesses  
4 to collect and store harvested water for future use.

5 C. The water harvesting income tax credit shall not  
6 exceed five thousand dollars (\$5,000). The department shall  
7 allow a water harvesting income tax credit only for a water  
8 harvesting system certified by the regulation and licensing  
9 department.

10 D. The department may allow a maximum annual  
11 aggregate of two million dollars (\$2,000,000) in water  
12 harvesting income tax credits per year. Applications for the  
13 tax credit shall be considered in the order received by the  
14 department.

15 E. A taxpayer may claim a water harvesting income  
16 tax credit in the taxable year in which the taxpayer purchases  
17 and installs a water harvesting system. To receive a water  
18 harvesting income tax credit, a taxpayer shall apply to the  
19 department on forms and in the manner prescribed by the  
20 department. The application shall include a certification made  
21 pursuant to Subsection J of this section.

22 F. If the requirements of this section have been  
23 complied with, the department shall issue to the applicant a  
24 document granting the tax credit allowed pursuant to this  
25 section. The document shall be numbered for identification and

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1 SENATE BILL 279

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

3 INTRODUCED BY

4 Peter Wirth and Carl Trujillo

5  
6  
7  
8  
9  
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<br>Occupied | 5 Tax Credit<br>per Square<br>Foot |
|-------------------------|-------------------------|------------------------------------|
| 6 LEED-NC Silver        | First 10,000            | \$3.50                             |
|                         | Next 40,000             | \$1.75                             |
|                         | Over 50,000             |                                    |
|                         | up to 500,000           | \$ .70                             |
| 10 LEED-NC Gold         | First 10,000            | \$4.75                             |
|                         | Next 40,000             | \$2.00                             |
|                         | Over 50,000             |                                    |
|                         | up to 500,000           | \$1.00                             |
| 14 LEED-NC Platinum     | First 10,000            | \$6.25                             |
|                         | Next 40,000             | \$3.25                             |
|                         | Over 50,000             |                                    |
|                         | up to 500,000           | \$2.00                             |
| 18 LEED-EB or CS Silver | First 10,000            | \$2.50                             |
|                         | Next 40,000             | \$1.25                             |
|                         | Over 50,000             |                                    |
|                         | up to 500,000           | \$ .50                             |
| 22 LEED-EB or CS Gold   | First 10,000            | \$3.35                             |
|                         | Next 40,000             | \$1.40                             |
|                         | Over 50,000             |                                    |
|                         | up to 500,000           | \$ .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] <u>Up to 2,000</u> | [\$5.00]   |

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