

1 AN ACT
2 RELATING TO TAXATION; CREATING THE 2021 SUSTAINABLE BUILDING
3 TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE
4 INCOME AND FRANCHISE TAX ACT; ACCELERATING THE TERMINATION OF
5 THE NEW SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE
6 INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT
7 AND CHANGING THE NAME OF THE CREDITS TO THE "2015 SUSTAINABLE
8 BUILDING TAX CREDIT".

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 7-2-18.29 NMSA 1978 (being Laws
12 2015, Chapter 130, Section 1) is amended to read:

13 "7-2-18.29. 2015 SUSTAINABLE BUILDING TAX CREDIT.--

14 A. The tax credit provided by this section may be
15 referred to as the "2015 sustainable building tax credit".

16 The 2015 sustainable building tax credit shall be available
17 for the construction in New Mexico of a sustainable building,
18 the renovation of an existing building in New Mexico into a
19 sustainable building or the permanent installation of
20 manufactured housing, regardless of where the housing is
21 manufactured, that is a sustainable building; provided that
22 the construction, renovation or installation project is
23 completed prior to April 1, 2023. The tax credit provided in
24 this section may not be claimed with respect to the same
25 sustainable building for which the 2015 sustainable building

1 tax credit provided in the Corporate Income and Franchise Tax
2 Act or the 2021 sustainable building tax credit pursuant to
3 the Income Tax Act or the Corporate Income and Franchise Tax
4 Act has been claimed.

5 B. The purpose of the 2015 sustainable building
6 tax credit is to encourage the construction of sustainable
7 buildings and the renovation of existing buildings into
8 sustainable buildings.

9 C. A taxpayer who files an income tax return is
10 eligible to be granted a 2015 sustainable building tax credit
11 by the department if the taxpayer submits a document issued
12 pursuant to Subsection K of this section with the taxpayer's
13 income tax return.

14 D. For taxable years ending on or before
15 December 31, 2024, the 2015 sustainable building tax credit
16 may be claimed with respect to a sustainable commercial
17 building. The credit shall be calculated based on the
18 certification level the building has achieved in the LEED
19 green building rating system and the amount of qualified
20 occupied square footage in the building, as indicated on the
21 following chart:

22 LEED Rating Level	23 Qualified 24 Occupied 25 Square Footage	26 Tax Credit 27 per Square 28 Foot
29 LEED-NC Silver	30 First 10,000	31 \$3.50

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

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

11 E. For taxable years ending on or before December
 12 31, 2024, the 2015 sustainable building tax credit may be
 13 claimed with respect to a sustainable residential building.
 14 The credit shall be calculated based on the amount of
 15 qualified occupied square footage, as indicated on the
 16 following chart:

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

1 Manufactured Housing Up to 2,000 \$3.00.

2 F. A person that is a building owner may apply for
3 a certificate of eligibility for the 2015 sustainable
4 building tax credit from the energy, minerals and natural
5 resources department after the construction, installation or
6 renovation of the sustainable building is complete.

7 Applications shall be considered in the order received. If
8 the energy, minerals and natural resources department
9 determines that the building owner meets the requirements of
10 this subsection and that the building with respect to which
11 the tax credit application is made meets the requirements of
12 this section as a sustainable residential building or a
13 sustainable commercial building, the energy, minerals and
14 natural resources department may issue a certificate of
15 eligibility to the building owner, subject to the limitations
16 in Subsection G of this section. The certificate shall
17 include the rating system certification level awarded to the
18 building, the amount of qualified occupied square footage in
19 the building and a calculation of the maximum amount of 2015
20 sustainable building tax credit for which the building owner
21 would be eligible. The energy, minerals and natural
22 resources department may issue rules governing the procedure
23 for administering the provisions of this subsection. If the
24 certification level for the sustainable residential building
25 is awarded on or after January 1, 2017 but prior to April 1,

2023, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

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

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

G. Except as provided in Subsection H of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2015 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of:

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

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

(3) three hundred seventy-five thousand

1 dollars (\$375,000) with respect to sustainable residential
2 buildings that are manufactured housing.

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

16 I. Installation of a solar thermal system or a
17 photovoltaic system eligible for the solar market development
18 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
19 used as a component of qualification for the rating system
20 certification level used in determining eligibility for the
21 2015 sustainable building tax credit, unless a solar market
22 development tax credit pursuant to Section 7-2-18.14 NMSA
23 1978 has not been claimed with respect to that system and the
24 building owner and the taxpayer claiming the 2015 sustainable
25 building tax credit certify that such a tax credit will not

1 be claimed with respect to that system.

2 J. To be eligible for the 2015 sustainable
3 building tax credit, the building owner shall provide to the
4 taxation and revenue department a certificate of eligibility
5 issued by the energy, minerals and natural resources
6 department pursuant to the requirements of Subsection F of
7 this section and any other information the taxation and
8 revenue department may require to determine the amount of the
9 tax credit for which the building owner is eligible.

10 K. If the requirements of this section have been
11 complied with, the department shall issue to the building
12 owner a document granting a 2015 sustainable building tax
13 credit. The document shall be numbered for identification
14 and declare its date of issuance and the amount of the tax
15 credit allowed pursuant to this section. The document may be
16 submitted by the building owner with that taxpayer's income
17 tax return, if applicable, or may be sold, exchanged or
18 otherwise transferred to another taxpayer. The parties to
19 such a transaction shall notify the department of the sale,
20 exchange or transfer within ten days of the sale, exchange or
21 transfer.

22 L. If the approved amount of a 2015 sustainable
23 building tax credit for a taxpayer in a taxable year
24 represented by a document issued pursuant to Subsection K of
25 this section is:

1 (1) less than one hundred thousand dollars
2 (\$100,000), a maximum of twenty-five thousand dollars
3 (\$25,000) shall be applied against the taxpayer's income tax
4 liability for the taxable year for which the credit is
5 approved and the next three subsequent taxable years as
6 needed depending on the amount of credit; or

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

13 M. If the sum of all 2015 sustainable building tax
14 credits that can be applied to a taxable year for a taxpayer,
15 calculated according to Paragraph (1) or (2) of Subsection L
16 of this section, exceeds the taxpayer's income tax liability
17 for that taxable year, the excess may be carried forward for
18 a period of up to seven years.

19 N. A taxpayer who otherwise qualifies and claims a
20 2015 sustainable building tax credit with respect to a
21 sustainable building owned by a partnership or other business
22 association of which the taxpayer is a member may claim a
23 credit only in proportion to that taxpayer's interest in the
24 partnership or association. The total credit claimed in the
25 aggregate by all members of the partnership or association

1 with respect to the sustainable building shall not exceed the
2 amount of the credit that could have been claimed by a sole
3 owner of the property.

4 O. Married individuals who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the 2015 sustainable
7 building tax credit that would have been allowed on a joint
8 return.

9 P. The department shall compile an annual report
10 on the 2015 sustainable building tax credit created pursuant
11 to this section that shall include the number of taxpayers
12 approved by the department to receive the tax credit, the
13 aggregate amount of tax credits approved and any other
14 information necessary to evaluate the effectiveness of the
15 tax credit. Beginning in 2019 and every three years
16 thereafter that the credit is in effect, the department shall
17 compile and present the annual reports to the revenue
18 stabilization and tax policy committee and the legislative
19 finance committee with an analysis of the effectiveness and
20 cost of the tax credit and whether the tax credit is
21 performing the purpose for which it was created.

22 Q. For the purposes of this section:

23 (1) "build green New Mexico rating system"
24 means the certification standards adopted by build green New
25 Mexico in November 2014, which include water conservation

standards;

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

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

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

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

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

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

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

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

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

(11) "manufactured housing" means a

1 multisectioned home that is:

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

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

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

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

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

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

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

24 (c) the United States environmental
25 protection agency for ENERGY STAR-certified manufactured

1 homes;

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

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

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

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

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

23 (c) has reduced energy consumption
24 beginning January 1, 2012, by sixty percent based on the
25 national average for that building type as published by the

1 United States department of energy as substantiated by the
2 United States environmental protection agency target finder
3 energy performance results form, dated no sooner than the
4 schematic design phase of development;

5 (16) "sustainable residential building"
6 means:

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

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

1 agency;

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

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

9 SECTION 2. A new section of the Income Tax Act is
10 enacted to read:

11 "2021 SUSTAINABLE BUILDING TAX CREDIT.--

12 A. The tax credit provided by this section may be
13 referred to as the "2021 sustainable building tax credit".

14 For taxable years prior to January 1, 2030, a taxpayer who is
15 a building owner and files an income tax return is eligible
16 to be granted a 2021 sustainable building tax credit by the
17 department if the requirements of this section are met. The
18 2021 sustainable building tax credit shall be available for
19 the construction in New Mexico of a sustainable building, the
20 renovation of an existing building in New Mexico, the
21 permanent installation of manufactured housing, regardless of
22 where the housing is manufactured, that is a sustainable
23 building or the installation of energy-conserving products to
24 existing buildings in New Mexico, as provided in this
25 section. The tax credit provided in this section may not be

1 claimed with respect to the same sustainable building for
2 which the 2021 sustainable building tax credit provided in
3 the Corporate Income and Franchise Tax Act or the 2015
4 sustainable building tax credit pursuant to the Income Tax
5 Act or the Corporate Income and Franchise Tax Act has been
6 claimed.

7 B. The amount of a 2021 sustainable building tax
8 credit shall be determined as follows:

9 (1) for the construction of a new
10 sustainable commercial building that is broadband ready and
11 electric vehicle ready and is completed on or after April 1,
12 2023, the amount of credit shall be calculated:

13 (a) based on the certification level
14 the building has achieved in the rating level and the amount
15 of qualified occupied square footage in the building, as
16 indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Platinum	First 10,000	\$5.25
	Next 40,000	\$2.25
	Over 50,000 up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40
	Next 40,000	\$1.30

1		Over 50,000	
2		up to 200,000	\$0.35
3	LEED-CI Platinum	First 10,000	\$1.50
4		Next 40,000	\$0.40
5		Over 50,000	
6		up to 200,000	\$0.30
7	LEED-NC Gold	First 10,000	\$3.00
8		Next 40,000	\$1.00
9		Over 50,000	
10		up to 200,000	\$0.25
11	LEED-EB or -CS Gold	First 10,000	\$2.00
12		Next 40,000	\$1.00
13		Over 50,000	
14		up to 200,000	\$0.25
15	LEED-CI Gold	First 10,000	\$0.90
16		Next 40,000	\$0.40
17		Over 50,000	
18		up to 200,000	\$0.10; and

19 (b) with additional amounts based on
 20 the additional criteria and the amount of qualified occupied
 21 square footage, as indicated in the following chart:

22	Additional Criteria	Qualified	Tax Credit
23		Occupied	per Square
24		Square Footage	Foot
25	Fully Electric Building	First 50,000	\$1.00

	Over 50,000	
	up to 200,000	\$0.50
Zero Carbon, Energy,		
Waste or Water Certified	First 50,000	\$0.25
	Over 50,000	
	up to 200,000	\$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be calculated by multiplying two dollars twenty-five cents (\$2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars (\$150,000) per renovation; provided that the renovation reduces total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

(3) for the installation of the following energy-conserving products to an existing commercial building with less than twenty thousand square feet of space in which temperature is controlled that is broadband ready, the amount of credit shall be based on the cost of the product

installed, which shall include installation costs, and if the building is affordable housing, per product installed:

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	100% of product cost up to \$3,000	50% of product cost up to \$1,500;

(4) for the construction of a new

sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-H Platinum	Up to 2,000	\$5.50
LEED-H Gold	Up to 2,000	\$3.80
Build Green Emerald	Up to 2,000	\$5.50
Build Green Gold	Up to 2,000	\$3.80
Manufactured Housing	Up to 2,000	\$2.00; and

(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	Up to 2,000	\$1.00
Zero Carbon, Energy, Waste or Water Certified	Up to 2,000	\$0.25; and

(5) for the installation of the following

energy-conserving products to an existing residential building, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing or the taxpayer is a low-income taxpayer, per product installed:

Product	Amount of Credit	
	Affordable Housing and Low-Income	Non-Affordable Housing and Non-Low Income
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350

1 Electric Vehicle Ready \$1,000 \$500.

2 C. A person who is a building owner may apply for
3 a certificate of eligibility for the 2021 sustainable
4 building tax credit from the energy, minerals and natural
5 resources department after the construction, installation or
6 renovation of the sustainable building or installation of
7 energy-conserving products in an existing building is
8 complete. Applications shall be considered in the order
9 received. If the energy, minerals and natural resources
10 department determines that the building owner meets the
11 requirements of this subsection and that the building with
12 respect to which the application is made meets the
13 requirements of this section for a 2021 sustainable building
14 tax credit, the energy, minerals and natural resources
15 department may issue a certificate of eligibility to the
16 building owner, subject to the limitations in Subsection D of
17 this section. The certificate shall include the rating
18 system certification level awarded to the building, the
19 amount of qualified occupied square footage in the building,
20 a calculation of the maximum amount of 2021 sustainable
21 building tax credit for which the building owner would be
22 eligible, the identification number, date of issuance and the
23 first taxable year that the credit shall be claimed. The
24 energy, minerals and natural resources department may issue
25 rules governing the procedure for administering the

1 provisions of this subsection. If the certification level
2 for the sustainable residential building is awarded on or
3 after January 1, 2021, the energy, minerals and natural
4 resources department may issue a certificate of eligibility
5 to a building owner who is:

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

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

12 D. Except as provided in Subsection E of this
13 section, the energy, minerals and natural resources
14 department may issue a certificate of eligibility only if the
15 total amount of 2021 sustainable building tax credits
16 represented by certificates of eligibility issued by the
17 energy, minerals and natural resources department pursuant to
18 this section and pursuant to the Corporate Income and
19 Franchise Tax Act shall not exceed in any calendar year an
20 aggregate amount of:

21 (1) one million dollars (\$1,000,000) with
22 respect to the construction of new sustainable commercial
23 buildings;

24 (2) two million dollars (\$2,000,000) with
25 respect to the construction of new sustainable residential

1 buildings that are not manufactured housing;

2 (3) two hundred fifty thousand dollars
3 (\$250,000) with respect to the construction of new
4 sustainable residential buildings that are manufactured
5 housing;

6 (4) one million dollars (\$1,000,000) with
7 respect to the renovation of large commercial buildings; and

8 (5) two million nine hundred thousand
9 dollars (\$2,900,000) with respect to the installation of
10 energy-conserving products in existing commercial buildings
11 pursuant to Paragraph (3) of Subsection B of this section and
12 existing residential buildings pursuant to Paragraph (5) of
13 Subsection B of this section.

14 E. For any taxable year that the energy, minerals
15 and natural resources department determines that applications
16 for sustainable building tax credits for any type of
17 sustainable building pursuant to Subsection D of this section
18 are less than the aggregate limit for that type of
19 sustainable building for that taxable year, the energy,
20 minerals and natural resources department shall allow the
21 difference between the aggregate limit and the applications
22 to be added to the aggregate limit of another type of
23 sustainable building for which applications exceeded the
24 aggregate limit for that taxable year. Any excess not used
25 in a taxable year shall not be carried forward to subsequent

1 taxable years.

2 F. Installation of a solar thermal system or a
3 photovoltaic system eligible for the solar market development
4 tax credit pursuant to Section 7-2-18.14 NMSA 1978 shall not
5 be used as a component of qualification for the rating system
6 certification level used in determining eligibility for the
7 2021 sustainable building tax credit, unless a solar market
8 development tax credit pursuant to Section 7-2-18.14 NMSA
9 1978 has not been claimed with respect to that system and the
10 building owner and the taxpayer claiming the 2021 sustainable
11 building tax credit certify that such a tax credit will not
12 be claimed with respect to that system.

13 G. To claim the 2021 sustainable building tax
14 credit, the building owner shall provide to the taxation and
15 revenue department a certificate of eligibility issued by the
16 energy, minerals and natural resources department pursuant to
17 the requirements of Subsection C of this section and any
18 other information the taxation and revenue department may
19 require.

20 H. If the approved amount of a 2021 sustainable
21 building tax credit for a taxpayer in a taxable year
22 represented by a document issued pursuant to Subsection C of
23 this section is:

24 (1) less than one hundred thousand dollars
25 (\$100,000), a maximum of twenty-five thousand dollars

1 (\$25,000) shall be applied against the taxpayer's income tax
2 liability for the taxable year for which the credit is
3 approved and the next three subsequent taxable years as
4 needed depending on the amount of credit; or

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

11 I. If the sum of all 2021 sustainable building tax
12 credits that can be applied to a taxable year for a taxpayer,
13 calculated according to Paragraph (1) or (2) of Subsection H
14 of this section, exceeds the taxpayer's income tax liability
15 for that taxable year, the excess may be carried forward for
16 a period of up to seven years; provided that if the taxpayer
17 is a low-income taxpayer, the excess shall be refunded to the
18 taxpayer.

19 J. A taxpayer who otherwise qualifies and claims a
20 2021 sustainable building tax credit with respect to a
21 sustainable building owned by a partnership or other business
22 association of which the taxpayer is a member may claim a
23 credit only in proportion to that taxpayer's interest in the
24 partnership or association. The total credit claimed in the
25 aggregate by all members of the partnership or association

1 with respect to the sustainable building shall not exceed the
2 amount of the credit that could have been claimed by a sole
3 owner of the property.

4 K. Married individuals who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the 2021 sustainable
7 building tax credit that would have been allowed on a joint
8 return.

9 L. If the requirements of this section have been
10 complied with, the department shall issue to the building
11 owner a document granting a 2021 sustainable building tax
12 credit. The document shall be numbered for identification
13 and declare its date of issuance and the amount of the tax
14 credit allowed pursuant to this section. The document may be
15 submitted by the building owner with that taxpayer's income
16 tax return, if applicable, or may be sold, exchanged or
17 otherwise transferred to another taxpayer. The parties to
18 such a transaction shall notify the department of the sale,
19 exchange or transfer within ten days of the sale, exchange or
20 transfer.

21 M. The department and the energy, minerals and
22 natural resources department shall compile an annual report
23 on the 2021 sustainable building tax credit created pursuant
24 to this section that shall include the number of taxpayers
25 approved to receive the tax credit, the aggregate amount of

1 tax credits approved and any other information necessary to
2 evaluate the effectiveness of the tax credit. The department
3 shall present the report to the revenue stabilization and tax
4 policy committee and the legislative finance committee with
5 an analysis of the effectiveness and cost of the tax credit.

6 N. For the purposes of this section:

7 (1) "broadband ready" means a building with
8 an internet connection capable of connecting to a broadband
9 provider;

10 (2) "build green emerald" means the emerald
11 level certification standard adopted by build green New
12 Mexico, which includes water conservation standards and uses
13 forty percent less energy than is required by the
14 prescriptive path of the most current residential energy
15 conservation code promulgated by the construction industries
16 division of the regulation and licensing department;

17 (3) "build green gold" means the gold level
18 certification standard adopted by build green New Mexico,
19 which includes water conservation standards and uses thirty
20 percent less energy than is required by the prescriptive path
21 of the most current residential energy conservation code
22 promulgated by the construction industries division of the
23 regulation and licensing department;

24 (4) "electric vehicle ready" means a
25 property that for commercial buildings provides at least ten

1 percent of parking spaces and for residential buildings at
2 least one parking space with one forty-ampere, two-hundred-
3 eight-volt or two-hundred-forty-volt dedicated branch circuit
4 for servicing electric vehicles that terminates in a suitable
5 termination point, such as a receptacle or junction box, and
6 is located in reasonably close proximity to the proposed
7 location of the parking spaces;

8 (5) "energy rating system index" means a
9 numerical score given to a building where one hundred is
10 equivalent to the 2006 international energy conservation code
11 and zero is equivalent to a net-zero home. As used in this
12 paragraph, "net-zero home" means an energy-efficient home
13 where, on a source energy basis, the actual annual delivered
14 energy is less than or equal to the on-site renewable
15 exported energy;

16 (6) "Energy Star" means products and devices
17 certified under the energy star program administered by
18 United States environmental protection agency and United
19 States department of energy that meet the specified
20 performance requirements at the installed locations;

21 (7) "fully electric building" means a
22 building that uses a permanent supply of electricity as the
23 source of energy for all space heating, water heating,
24 including pools and spas, cooking appliances and clothes
25 drying appliances and, in the case of a new building, has no

1 natural gas or propane plumbing installed in the building or,
2 in the case of an existing building, has no connected natural
3 gas or propane plumbing;

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

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

10 (10) "LEED-CS" means the LEED rating system
11 for the core and shell of buildings;

12 (11) "LEED-EB" means the LEED rating system
13 for existing buildings;

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

17 (13) "LEED-H" means the LEED rating system
18 for homes;

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

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

24 (16) "low-income taxpayer" means a taxpayer
25 with an annual household adjusted gross income equal to or

1 less than two hundred percent of the federal poverty level
2 guidelines published by the United States department of
3 health and human services;

4 (17) "manufactured housing" means a
5 multisectioned home that is:

6 (a) a manufactured home or modular
7 home;

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

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

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

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

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

25 (b) the administrators of the build

1 green New Mexico rating system for those homes obtaining
2 build green New Mexico certification; and

3 (c) the United States environmental
4 protection agency for Energy Star-certified manufactured
5 homes;

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

8 (20) "sustainable building" means either a
9 sustainable commercial building or a sustainable residential
10 building;

11 (21) "sustainable commercial building"
12 means:

13 (a) a commercial building that is
14 certified as any LEED platinum or gold for commercial
15 buildings;

16 (b) a multifamily dwelling unit that is
17 certified as LEED-H platinum or gold or build green emerald
18 or gold and uses at least thirty percent less energy than is
19 required by the prescriptive path of the most current
20 applicable energy conservation code promulgated by the
21 construction industries division of the regulation and
22 licensing department for build green gold or LEED-H, or uses
23 at least forty percent less energy than is required by the
24 prescriptive path of the most current residential energy
25 conservation code promulgated by the construction industries

1 division of the regulation and licensing department for build
2 green emerald or LEED platinum; or

3 (c) a building that: 1) is certified
4 at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold
5 levels; 2) achieves any prerequisite for and at least one
6 point related to commissioning under the LEED energy and
7 atmosphere category, if included in the applicable rating
8 system; and 3) has reduced energy consumption beginning
9 January 1, 2012 by forty percent based on the national
10 average for that building type as published by the United
11 States department of energy as substantiated by the United
12 States environmental protection agency target finder energy
13 performance results form, dated no sooner than the schematic
14 design phase of development;

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

17 (a) a building used as a single-family
18 residence that: 1) is certified as LEED-H platinum or gold
19 or build green emerald or gold; 2) uses at least thirty
20 percent less energy than is required by the prescriptive path
21 of the most current residential energy conservation code
22 promulgated by the construction industries division of the
23 regulation and licensing department for build green gold or
24 LEED-H, or uses at least forty percent less energy than is
25 required by the prescriptive path of the most current

1 residential energy conservation code promulgated by the
2 construction industries division of the regulation and
3 licensing department for build green emerald or LEED
4 platinum; 3) has indoor plumbing fixtures and water-using
5 appliances that, on average, have flow rates equal to or
6 lower than the flow rates required for certification by
7 WaterSense; 4) if landscape area is available at the front of
8 the property, has at least one water line outside the
9 building below the frost line that may be connected to a drip
10 irrigation system; and 5) if landscape area is available at
11 the rear of the property, has at least one water line outside
12 the building below the frost line that may be connected to a
13 drip irrigation system; or

14 (b) manufactured housing that is Energy
15 Star-qualified;

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

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

23 (25) "zero carbon certified" means a
24 building that is certified as LEED zero carbon by achieving a
25 carbon-dioxide-equivalent balance of zero for the building;

1 (26) "zero energy certified" means a
2 building that is certified as LEED zero energy by achieving a
3 source energy use balance of zero for the building;

4 (27) "zero waste certified" means a building
5 that is certified as LEED zero waste by achieving green
6 building certification incorporated's true zero waste
7 certification at the platinum level; and

8 (28) "zero water certified" means a building
9 that is certified as LEED zero water by achieving a potable
10 water use balance of zero for the building."

11 SECTION 3. Section 7-2A-28 NMSA 1978 (being Laws 2015,
12 Chapter 130, Section 2) is amended to read:

13 "7-2A-28. 2015 SUSTAINABLE BUILDING TAX CREDIT.--

14 A. The tax credit provided by this section may be
15 referred to as the "2015 sustainable building tax credit".
16 The 2015 sustainable building tax credit shall be available
17 for the construction in New Mexico of a sustainable building,
18 the renovation of an existing building in New Mexico into a
19 sustainable building or the permanent installation of
20 manufactured housing, regardless of where the housing is
21 manufactured, that is a sustainable building; provided that
22 the construction, renovation or installation project is
23 completed prior to April 1, 2023. The tax credit provided in
24 this section may not be claimed with respect to the same
25 sustainable building for which the 2015 sustainable building

1 tax credit provided in the Income Tax Act or the 2021
2 sustainable building tax credit pursuant to the Income Tax
3 Act or the Corporate Income and Franchise Tax Act has been
4 claimed.

5 B. The purpose of the 2015 sustainable building
6 tax credit is to encourage the construction of sustainable
7 buildings and the renovation of existing buildings into
8 sustainable buildings.

9 C. A taxpayer that files a corporate income tax
10 return is eligible to be granted a 2015 sustainable building
11 tax credit by the department if the taxpayer submits a
12 document issued pursuant to Subsection K of this section with
13 the taxpayer's corporate income tax return.

14 D. For taxable years ending on or before December
15 31, 2024, the 2015 sustainable building tax credit may be
16 claimed with respect to a sustainable commercial building.
17 The credit shall be calculated based on the certification
18 level the building has achieved in the LEED green building
19 rating system and the amount of qualified occupied square
20 footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified	Tax Credit per
	Occupied	Square Foot
	Square Footage	
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75

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

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

11 E. For taxable years ending on or before December
 12 31, 2024, the 2015 sustainable building tax credit may be
 13 claimed with respect to a sustainable residential building.
 14 The credit shall be calculated based on the amount of
 15 qualified occupied square footage, as indicated on the
 16 following chart:

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

1 Manufactured Housing Up to 2,000 \$3.00.

2 F. A person that is a building owner may apply for
3 a certificate of eligibility for the 2015 sustainable
4 building tax credit from the energy, minerals and natural
5 resources department after the construction, installation or
6 renovation of the sustainable building is complete.

7 Applications shall be considered in the order received. If
8 the energy, minerals and natural resources department
9 determines that the building owner meets the requirements of
10 this subsection and that the building with respect to which
11 the tax credit application is made meets the requirements of
12 this section as a sustainable residential building or a
13 sustainable commercial building, the energy, minerals and
14 natural resources department may issue a certificate of
15 eligibility to the building owner, subject to the limitations
16 in Subsection G of this section. The certificate shall
17 include the rating system certification level awarded to the
18 building, the amount of qualified occupied square footage in
19 the building and a calculation of the maximum amount of 2015
20 sustainable building tax credit for which the building owner
21 would be eligible. The energy, minerals and natural
22 resources department may issue rules governing the procedure
23 for administering the provisions of this subsection. If the
24 certification level for the sustainable residential building
25 is awarded on or after January 1, 2017 but prior to April 1,

1 2023, the energy, minerals and natural resources department
2 may issue a certificate of eligibility to a building owner
3 who is:

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

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

10 G. Except as provided in Subsection H of this
11 section, the energy, minerals and natural resources
12 department may issue a certificate of eligibility only if the
13 total amount of 2015 sustainable building tax credits
14 represented by certificates of eligibility issued by the
15 energy, minerals and natural resources department pursuant to
16 this section and pursuant to the Income Tax Act shall not
17 exceed in any calendar year an aggregate amount of:

18 (1) one million two hundred fifty thousand
19 dollars (\$1,250,000) with respect to sustainable commercial
20 buildings;

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

24 (3) three hundred seventy-five thousand
25 dollars (\$375,000) with respect to sustainable residential

1 buildings that are manufactured housing.

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

15 I. Installation of a solar thermal system or a
16 photovoltaic system eligible for the solar market development
17 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
18 used as a component of qualification for the rating system
19 certification level used in determining eligibility for the
20 2015 sustainable building tax credit, unless a solar market
21 development tax credit pursuant to Section 7-2-18.14 NMSA
22 1978 has not been claimed with respect to that system and the
23 building owner and the taxpayer claiming the 2015 sustainable
24 building tax credit certify that such a tax credit will not
25 be claimed with respect to that system.

1 J. To be eligible for the 2015 sustainable
2 building tax credit, the building owner shall provide to the
3 taxation and revenue department a certificate of eligibility
4 issued by the energy, minerals and natural resources
5 department pursuant to the requirements of Subsection F of
6 this section and any other information the taxation and
7 revenue department may require to determine the amount of the
8 tax credit for which the building owner is eligible.

9 K. If the requirements of this section have been
10 complied with, the department shall issue to the building
11 owner a document granting a 2015 sustainable building tax
12 credit. The document shall be numbered for identification
13 and declare its date of issuance and the amount of the tax
14 credit allowed pursuant to this section. The document may be
15 submitted by the building owner with that taxpayer's income
16 tax return, if applicable, or may be sold, exchanged or
17 otherwise transferred to another taxpayer. The parties to
18 such a transaction shall notify the department of the sale,
19 exchange or transfer within ten days of the sale, exchange or
20 transfer.

21 L. If the approved amount of a 2015 sustainable
22 building tax credit for a taxpayer in a taxable year
23 represented by a document issued pursuant to Subsection K of
24 this section is:

25 (1) less than one hundred thousand dollars

1 (\$100,000), a maximum of twenty-five thousand dollars
2 (\$25,000) shall be applied against the taxpayer's corporate
3 income tax liability for the taxable year for which the
4 credit is approved and the next three subsequent taxable
5 years as needed depending on the amount of credit; or

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

12 M. If the sum of all 2015 sustainable building tax
13 credits that can be applied to a taxable year for a taxpayer,
14 calculated according to Paragraph (1) or (2) of Subsection L
15 of this section, exceeds the taxpayer's corporate income tax
16 liability for that taxable year, the excess may be carried
17 forward for a period of up to seven years.

18 N. A taxpayer that otherwise qualifies and claims
19 a 2015 sustainable building tax credit with respect to a
20 sustainable building owned by a partnership or other business
21 association of which the taxpayer is a member may claim a
22 credit only in proportion to that taxpayer's interest in the
23 partnership or association. The total credit claimed in the
24 aggregate by all members of the partnership or association
25 with respect to the sustainable building shall not exceed the

1 amount of the credit that could have been claimed by a sole
2 owner of the property.

3 O. The department shall compile an annual report
4 on the 2015 sustainable building tax credit created pursuant
5 to this section that shall include the number of taxpayers
6 approved by the department to receive the tax credit, the
7 aggregate amount of tax credits approved and any other
8 information necessary to evaluate the effectiveness of the
9 tax credit. Beginning in 2019 and every three years
10 thereafter that the credit is in effect, the department shall
11 compile and present the annual reports to the revenue
12 stabilization and tax policy committee and the legislative
13 finance committee with an analysis of the effectiveness and
14 cost of the tax credit and whether the tax credit is
15 performing the purpose for which it was created.

16 P. For the purposes of this section:

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

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

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

25 (4) "LEED-EB" means the LEED rating system

1 for existing buildings;

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

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

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

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

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

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

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

21 (a) a manufactured home or modular
22 home;

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

1 feet;

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

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

11 (12) "qualified occupied square footage"
12 means 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
16 green New Mexico rating system for those homes obtaining
17 build green New Mexico certification; and

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

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

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

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

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

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

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

24 (16) "sustainable residential building"
25 means:

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

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

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

24 (18) "WaterSense" means a program created by
25 the federal environmental protection agency that certifies

1 water-using products that meet the environmental protection
2 agency's criteria for efficiency and performance."

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

5 "2021 SUSTAINABLE BUILDING TAX CREDIT.--

6 A. The tax credit provided by this section may be
7 referred to as the "2021 sustainable building tax credit".
8 For taxable years prior to January 1, 2030, a taxpayer that
9 is a building owner and files a corporate income tax return
10 is eligible to be granted a 2021 sustainable building tax
11 credit by the department if the requirements of this section
12 are met. The 2021 sustainable building tax credit shall be
13 available for the construction in New Mexico of a sustainable
14 building, the renovation of an existing building in New
15 Mexico, the permanent installation of manufactured housing,
16 regardless of where the housing is manufactured, that is a
17 sustainable building or the installation of energy-conserving
18 products to existing buildings in New Mexico, as provided in
19 this section. The tax credit provided in this section may
20 not be claimed with respect to the same sustainable building
21 for which the 2021 sustainable building tax credit provided
22 in the Income Tax Act or the 2015 sustainable building tax
23 credit pursuant to the Income Tax Act or the Corporate Income
24 and Franchise Tax Act has been claimed.

25 B. The amount of a 2021 sustainable building tax

credit shall be determined as follows:

(1) for the construction of a new sustainable commercial building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Platinum	First 10,000	\$5.25
	Next 40,000	\$2.25
	Over 50,000	
	up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40
	Next 40,000	\$1.30
	Over 50,000	
	up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000	
	up to 200,000	\$0.30
LEED-NC Gold	First 10,000	\$3.00

1		Next 40,000	\$1.00
2		Over 50,000	
3		up to 200,000	\$0.25
4	LEED-EB or -CS Gold	First 10,000	\$2.00
5		Next 40,000	\$1.00
6		Over 50,000	
7		up to 200,000	\$0.25
8	LEED-CI Gold	First 10,000	\$0.90
9		Next 40,000	\$0.40
10		Over 50,000	
11		up to 200,000	\$0.10; and

12 (b) with additional amounts based on
13 the additional criteria and the amount of qualified occupied
14 square footage, as indicated in the following chart:

15	Additional Criteria	Qualified	Tax Credit
16		Occupied	per Square
17		Square Footage	Foot
18	Fully Electric Building	First 50,000	\$1.00
19		Over 50,000	
20		up to 200,000	\$0.50
21	Zero Carbon, Energy,		
22	Waste or Water Certified	First 50,000	\$0.25
23		Over 50,000	
24		up to 200,000	\$0.10;

25 (2) for the renovation of a commercial

1 building that was built at least ten years prior to the date
2 of the renovation, has twenty thousand square feet or more of
3 space in which temperature is controlled and is broadband
4 ready and electric vehicle ready, the amount of credit shall
5 be calculated by multiplying two dollars twenty-five cents
6 (\$2.25) by the amount of qualified occupied square footage in
7 the building, up to a maximum of one hundred fifty thousand
8 dollars (\$150,000) per renovation; provided that the
9 renovation reduces total energy and power costs by fifty
10 percent when compared to the most current energy standard for
11 buildings except low-rise residential buildings, as developed
12 by the American society of heating, refrigerating and air-
13 conditioning engineers;

14 (3) for the installation of the following
15 energy-conserving products to an existing commercial building
16 with less than twenty thousand square feet of space in which
17 temperature is controlled that is broadband ready, the amount
18 of credit shall be based on the cost of the product
19 installed, which shall include installation costs, and if the
20 building is affordable housing, per product installed:

Product	Amount of Credit	
	Affordable	Non-Affordable
	Housing	Housing
Energy Star Air		
Source Heat Pump	\$2,000	\$1,000

1	Energy Star Ground		
2	Source Heat Pump	\$2,000	\$1,000
3	Energy Star		
4	Windows and Doors	100% of product	50% of product
5		cost up to	cost up to
6		\$1,000	\$500
7	Insulation Improvements That		
8	Meet Rules of the		
9	Energy, Minerals and Natural		
10	Resources Department	100% of product	50% of product
11		cost up to	cost up to
12		\$2,000	\$1,000
13	Energy Star Heat Pump Water		
14	Heater	\$700	\$350
15	Electric Vehicle Ready	100% of product	50% of product
16		cost up to	cost up to
17		\$3,000	\$1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

1	Rating Level	Qualified	Tax Credit
2		Occupied	per Square
3		Square Footage	Foot
4	LEED-H Platinum	Up to 2,000	\$5.50
5	LEED-H Gold	Up to 2,000	\$3.80
6	Build Green Emerald	Up to 2,000	\$5.50
7	Build Green Gold	Up to 2,000	\$3.80
8	Manufactured Housing	Up to 2,000	\$2.00; and

9 (b) with additional amounts based on
10 the additional criteria and the amount of qualified occupied
11 square footage, as indicated in the following chart:

12	Additional Criteria	Qualified	Tax Credit
13		Occupied	per Square
14		Square Footage	Foot
15	Fully Electric Building	Up to 2,000	\$1.00
16	Zero Carbon, Energy,		
17	Waste or Water Certified	Up to 2,000	\$0.25; and

18 (5) for the installation of the following
19 energy-conserving products to an existing residential
20 building, the amount of credit shall be based on the cost of
21 the product installed, which shall include installation
22 costs, and if the building is affordable housing or the
23 taxpayer is a low-income taxpayer, per product installed:

24	Product	Amount of Credit	
25		Affordable	Non-Affordable

	Housing and Low-Income	Housing and Non-Low Income
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	\$1,000	\$500.

C. A person that is a building owner may apply for a certificate of eligibility for the 2021 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building or installation of energy-conserving products in an existing building is

1 complete. Applications shall be considered in the order
2 received. If the energy, minerals and natural resources
3 department determines that the building owner meets the
4 requirements of this subsection and that the building with
5 respect to which the application is made meets the
6 requirements of this section for a 2021 sustainable building
7 tax credit, the energy, minerals and natural resources
8 department may issue a certificate of eligibility to the
9 building owner, subject to the limitations in Subsection D of
10 this section. The certificate shall include the rating
11 system certification level awarded to the building, the
12 amount of qualified occupied square footage in the building,
13 a calculation of the maximum amount of 2021 sustainable
14 building tax credit for which the building owner would be
15 eligible, the identification number, date of issuance and the
16 first taxable year that the credit shall be claimed. The
17 energy, minerals and natural resources department may issue
18 rules governing the procedure for administering the
19 provisions of this subsection. If the certification level
20 for the sustainable residential building is awarded on or
21 after January 1, 2021, the energy, minerals and natural
22 resources department may issue a certificate of eligibility
23 to a building owner who is:

24 (1) the owner of the sustainable residential
25 building at the time the certification level for the building

1 is awarded; or

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

5 D. Except as provided in Subsection E of this
6 section, the energy, minerals and natural resources
7 department may issue a certificate of eligibility only if the
8 total amount of 2021 sustainable building tax credits
9 represented by certificates of eligibility issued by the
10 energy, minerals and natural resources department pursuant to
11 this section and pursuant to the Income Tax Act shall not
12 exceed in any calendar year an aggregate amount of:

13 (1) one million dollars (\$1,000,000) with
14 respect to the construction of new sustainable commercial
15 buildings;

16 (2) two million dollars (\$2,000,000) with
17 respect to the construction of new sustainable residential
18 buildings that are not manufactured housing;

19 (3) two hundred fifty thousand dollars
20 (\$250,000) with respect to the construction of new
21 sustainable residential buildings that are manufactured
22 housing;

23 (4) one million dollars (\$1,000,000) with
24 respect to the renovation of large commercial buildings; and

25 (5) two million nine hundred thousand

1 dollars (\$2,900,000) with respect to the installation of
2 energy-conserving products in existing commercial buildings
3 pursuant to Paragraph (3) of Subsection B of this section and
4 existing residential buildings pursuant to Paragraph (5) of
5 Subsection B of this section.

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

19 F. Installation of a solar thermal system or a
20 photovoltaic system eligible for the solar market development
21 tax credit pursuant to Section 7-2-18.14 NMSA 1978 shall not
22 be used as a component of qualification for the rating system
23 certification level used in determining eligibility for the
24 2021 sustainable building tax credit, unless a solar market
25 development tax credit pursuant to Section 7-2-18.14 NMSA

1 1978 has not been claimed with respect to that system and the
2 building owner and the taxpayer claiming the 2021 sustainable
3 building tax credit certify that such a tax credit will not
4 be claimed with respect to that system.

5 G. To claim the 2021 sustainable building tax
6 credit, the building owner shall provide to the taxation and
7 revenue department a certificate of eligibility issued by the
8 energy, minerals and natural resources department pursuant to
9 the requirements of Subsection C of this section and any
10 other information the taxation and revenue department may
11 require.

12 H. If the approved amount of a 2021 sustainable
13 building tax credit for a taxpayer in a taxable year
14 represented by a document issued pursuant to Subsection C of
15 this section is:

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

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

1 three subsequent taxable years, shall be applied against the
2 taxpayer's corporate income tax liability.

3 I. If the sum of all 2021 sustainable building tax
4 credits that can be applied to a taxable year for a taxpayer,
5 calculated according to Paragraph (1) or (2) of Subsection H
6 of this section, exceeds the taxpayer's corporate income tax
7 liability for that taxable year, the excess may be carried
8 forward for a period of up to seven years.

9 J. A taxpayer that otherwise qualifies and claims
10 a 2021 sustainable building tax credit with respect to a
11 sustainable building owned by a partnership or other business
12 association of which the taxpayer is a member may claim a
13 credit only in proportion to that taxpayer's interest in the
14 partnership or association. The total credit claimed in the
15 aggregate by all members of the partnership or association
16 with respect to the sustainable building shall not exceed the
17 amount of the credit that could have been claimed by a sole
18 owner of the property.

19 K. If the requirements of this section have been
20 complied with, the department shall issue to the building
21 owner a document granting a 2021 sustainable building tax
22 credit. The document shall be numbered for identification
23 and declare its date of issuance and the amount of the tax
24 credit allowed pursuant to this section. The document may be
25 submitted by the building owner with that taxpayer's income

1 tax return, if applicable, or may be sold, exchanged or
2 otherwise transferred to another taxpayer. The parties to
3 such a transaction shall notify the department of the sale,
4 exchange or transfer within ten days of the sale, exchange or
5 transfer.

6 L. The department and the energy, minerals and
7 natural resources department shall compile an annual report
8 on the 2021 sustainable building tax credit created pursuant
9 to this section that shall include the number of taxpayers
10 approved to receive the tax credit, the aggregate amount of
11 tax credits approved and any other information necessary to
12 evaluate the effectiveness of the tax credit. The department
13 shall present the report to the revenue stabilization and tax
14 policy committee and the legislative finance committee with
15 an analysis of the effectiveness and cost of the tax credit.

16 M. For the purposes of this section:

17 (1) "broadband ready" means a building with
18 an internet connection capable of connecting to a broadband
19 provider;

20 (2) "build green emerald" means the emerald
21 level certification standard adopted by build green New
22 Mexico, which includes water conservation standards and uses
23 forty percent less energy than is required by the
24 prescriptive path of the most current residential energy
25 conservation code promulgated by the construction industries

1 division of the regulation and licensing department;

2 (3) "build green gold" means the gold level
3 certification standard adopted by build green New Mexico,
4 which includes water conservation standards and uses thirty
5 percent less energy than is required by the prescriptive path
6 of the most current residential energy conservation code
7 promulgated by the construction industries division of the
8 regulation and licensing department;

9 (4) "electric vehicle ready" means a
10 property that provides for commercial buildings at least ten
11 percent of parking spaces and for residential buildings at
12 least one parking space with one forty-ampere,
13 two-hundred-eight-volt or two-hundred-forty-volt dedicated
14 branch circuit for servicing electric vehicles that
15 terminates in a suitable termination point, such as a
16 receptacle or junction box, and is located in reasonably
17 close proximity to the proposed location of the parking
18 spaces;

19 (5) "energy rating system index" means a
20 numerical score given to a building where one hundred is
21 equivalent to the 2006 international energy conservation code
22 and zero is equivalent to a net-zero home. As used in this
23 paragraph, "net-zero home" means an energy-efficient home
24 where, on a source energy basis, the actual annual delivered
25 energy is less than or equal to the on-site renewable

1 exported energy;

2 (6) "Energy Star" means products and devices
3 certified under the energy star program administered by
4 United States environmental protection agency and United
5 States department of energy that meet the specified
6 performance requirements at the installed locations;

7 (7) "fully electric building" means a
8 building that uses a permanent supply of electricity as the
9 source of energy for all space heating, water heating,
10 including pools and spas, cooking appliances and clothes
11 drying appliances and, in the case of a new building, has no
12 natural gas or propane plumbing installed in the building or,
13 in the case of an existing building, has no connected natural
14 gas or propane plumbing;

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

19 (9) "LEED-CI" means the LEED rating system
20 for commercial interiors;

21 (10) "LEED-CS" means the LEED rating system
22 for the core and shell of buildings;

23 (11) "LEED-EB" means the LEED rating system
24 for existing buildings;

25 (12) "LEED gold" means the rating in

1 compliance with, or exceeding, the second-highest rating
2 awarded by the LEED certification process;

3 (13) "LEED-H" means the LEED rating system
4 for homes;

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

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

10 (16) "low-income taxpayer" means a taxpayer
11 with an annual household adjusted gross income equal to or
12 less than two hundred percent of the federal poverty level
13 guidelines published by the United States department of
14 health and human services;

15 (17) "manufactured housing" means a
16 multisectioned home that is:

17 (a) a manufactured home or modular
18 home;

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

23 (c) constructed in a factory to the
24 standards of the United States department of housing and
25 urban development, the National Manufactured Housing

1 Construction and Safety Standards Act of 1974 and the Housing
2 and Urban Development Zone Code 2 or New Mexico construction
3 codes up to the date of the unit's construction; and

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

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

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

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

14 (c) the United States environmental
15 protection agency for Energy Star-certified manufactured
16 homes;

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

19 (20) "sustainable building" means either a
20 sustainable commercial building or a sustainable residential
21 building;

22 (21) "sustainable commercial building"
23 means:

24 (a) a commercial building that is
25 certified as any LEED platinum or gold for commercial

1 buildings;

2 (b) a multifamily dwelling unit that is
3 certified as LEED-H platinum or gold or build green emerald
4 or gold and uses at least thirty percent less energy than is
5 required by the prescriptive path of the most current
6 applicable energy conservation code promulgated by the
7 construction industries division of the regulation and
8 licensing department for build green gold or LEED-H, or uses
9 at least forty percent less energy than is required by the
10 prescriptive path of the most current residential energy
11 conservation code promulgated by the construction industries
12 division of the regulation and licensing department for build
13 green emerald or LEED platinum; or

14 (c) a building that: 1) is certified
15 at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold
16 levels; 2) achieves any prerequisite for and at least one
17 point related to commissioning under the LEED energy and
18 atmosphere category, if included in the applicable rating
19 system; and 3) has reduced energy consumption beginning
20 January 1, 2012 by forty percent based on the national
21 average for that building type as published by the United
22 States department of energy as substantiated by the United
23 States environmental protection agency target finder energy
24 performance results form, dated no sooner than the schematic
25 design phase of development;

1 (22) "sustainable residential building"

2 means:

3 (a) a building used as a single-family
4 residence that: 1) is certified as LEED-H platinum or gold
5 or build green emerald or gold; 2) uses at least thirty
6 percent less energy than is required by the prescriptive path
7 of the most current residential energy conservation code
8 promulgated by the construction industries division of the
9 regulation and licensing department for build green gold or
10 LEED-H, or uses at least forty percent less energy than is
11 required by the prescriptive path of the most current
12 residential energy conservation code promulgated by the
13 construction industries division of the regulation and
14 licensing department for build green emerald or LEED
15 platinum; 3) has indoor plumbing fixtures and water-using
16 appliances that, on average, have flow rates equal to or
17 lower than the flow rates required for certification by
18 WaterSense; 4) if landscape area is available at the front of
19 the property, has at least one water line outside the
20 building below the frost line that may be connected to a drip
21 irrigation system; and 5) if landscape area is available at
22 the rear of the property, has at least one water line outside
23 the building below the frost line that may be connected to a
24 drip irrigation system; or

25 (b) manufactured housing that is Energy HTRC/HB 15/a
Page 67

1 Star-qualified;

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

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

9 (25) "zero carbon certified" means a
10 building that is certified as LEED zero carbon by achieving a
11 carbon-dioxide-equivalent balance of zero for the building;

12 (26) "zero energy certified" means a
13 building that is certified as LEED zero energy by achieving a
14 source energy use balance of zero for the building;

15 (27) "zero waste certified" means a building
16 that is certified as LEED zero waste by achieving green
17 building certification incorporated's true zero waste
18 certification at the platinum level; and

19 (28) "zero water certified" means a building
20 that is certified as LEED zero water by achieving a potable
21 water use balance of zero for the building."

22 SECTION 5. APPLICABILITY.--The provisions of Sections 2
23 and 4 of this act apply to taxable years beginning on or after
24 January 1, 2021.