HOUSE BILL 15

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Kristina Ortez and Tara L. Lujan and Javier Martínez

and Linda Serrato

AN ACT
RELATING TO TAXATION; CREATING THE 2021 SUSTAINABLE BUILDING
TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE
INCOME AND FRANCHISE TAX ACT; ACCELERATING THE TERMINATION OF
THE NEW SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME
TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT AND
CHANGING THE NAME OF THE CREDITS TO THE "2015 SUSTAINABLE
BUILDING TAX CREDIT".

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

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

"7-2-18.29. [NEW] 2015 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be
referred to as the "[new] 2015 sustainable building tax
credit". The [new] 2015 sustainable building tax credit shall

.218390.9
be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building; provided that the construction, renovation or installation commences prior to the effective date of this 2021 act and is completed prior to January 1, 2022. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the [new] 2015 sustainable building tax credit provided in the Corporate Income and Franchise Tax Act or the 2021 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the [new] 2015 sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

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

D. For taxable years ending on or before December 31, 2026, the [new] 2015 sustainable building tax
credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

<table>
<thead>
<tr>
<th>LEED Rating Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Silver</td>
<td>First 10,000</td>
<td>$3.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.75</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.70</td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$0.70</td>
</tr>
<tr>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
<td>$4.75</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.00</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$1.00</td>
</tr>
<tr>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
<td>$6.25</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$3.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$2.00</td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$2.00</td>
</tr>
<tr>
<td>LEED-EB or CS Silver</td>
<td>First 10,000</td>
<td>$2.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.50</td>
</tr>
<tr>
<td></td>
<td>up to 500,000</td>
<td>$0.50</td>
</tr>
</tbody>
</table>
LEED-EB or CS Gold
First 10,000 $3.35
Next 40,000 $1.40
Over 50,000
up to 500,000 $ .70

LEED-EB or CS Platinum
First 10,000 $4.40
Next 40,000 $2.30
Over 50,000
up to 500,000 $1.40

LEED-CI Silver
First 10,000 $1.40
Next 40,000 $ .70
Over 50,000
up to 500,000 $ .30

LEED-CI Gold
First 10,000 $1.90
Next 40,000 $ .80
Over 50,000
up to 500,000 $ .40

LEED-CI Platinum
First 10,000 $2.50
Next 40,000 $1.30
Over 50,000
up to 500,000 $ .80.

E. For taxable years ending on or before December 31, 2026, the sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:
Rating System/Level | Qualified Occupied | Tax Credit per Square Square Footage Foot
--- | --- | ---
LEED-H Silver or Build | Up to 2,000 | $3.00
Green NM Silver
LEED-H Gold or Build | Up to 2,000 | $4.50
Green NM Gold
LEED-H Platinum or Build | Up to 2,000 | $6.50
Green NM Emerald
Manufactured Housing | Up to 2,000 | $3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the [new] 2015 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system.
certification level awarded to the building, the amount of
qualified occupied square footage in the building and a
calculation of the maximum amount of [new] 2015 sustainable
building tax credit for which the building owner would be
eligible. The energy, minerals and natural resources
department may issue rules governing the procedure for
administering the provisions of this subsection. If the
certification level for the sustainable residential building is
awarded on or after January 1, 2017 but prior to January 1,
2022, 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 [new] 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:

.218390.9

- 6 -
(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 dollars ($375,000) with respect to sustainable residential buildings that are manufactured housing.

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

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

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

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

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

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

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

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

N. A taxpayer who otherwise qualifies and claims a
new] 2015 sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

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

P. The department shall compile an annual report on the [new] 2015 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and

.218390.9

- 10 -
whether the tax credit is performing the purpose for which it was created.

Q. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by build green New 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
multisectioned home that is:

   (a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) "sustainable residential building" means:

(a) a building used as a single-family
residence as registered and certified under the build green New
Mexico or LEED-H rating 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

.218390.9

- 14 -
agency;

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

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

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

"[NEW MATERIAL] 2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, 2027, a taxpayer who is a building owner and files an income tax return is eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect
to the same sustainable building for which the 2021 sustainable building tax credit provided in the Corporate Income and Franchise Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

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, 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:

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
<td>$5.25</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$1.00</td>
</tr>
<tr>
<td>LEED-EB or CS Platinum</td>
<td>First 10,000</td>
<td>$3.40</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.30</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.35</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.35</td>
</tr>
</tbody>
</table>
LEED-CI Platinum

<table>
<thead>
<tr>
<th>First 10,000</th>
<th>$1.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Next 40,000</td>
<td>$0.40</td>
</tr>
<tr>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td>up to 200,000</td>
<td>$0.30; and</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Occupied per Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>First 50,000 $1.00</td>
</tr>
<tr>
<td>Over 50,000</td>
<td>up to 200,000 $0.50</td>
</tr>
<tr>
<td>Zero Net Carbon, Energy, Water and Waste Certified</td>
<td>First 50,000 $1.00</td>
</tr>
<tr>
<td>Over 50,000</td>
<td>up to 200,000 $0.50;</td>
</tr>
</tbody>
</table>

(2) for the renovation of a commercial building with twenty thousand square feet or more of space in which temperature is controlled and that 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:

<table>
<thead>
<tr>
<th>Product</th>
<th>Amount of Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Affordable Housing</td>
</tr>
<tr>
<td>Energy Star Air Source Heat Pump</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Ground Source Heat Pump</td>
<td>$2,000</td>
</tr>
<tr>
<td>Energy Star Windows and Doors</td>
<td>100% of product cost up to $1,000</td>
</tr>
<tr>
<td>Insulation Improvements That Meet Rules of the Energy, Minerals and Natural .218390.9</td>
<td></td>
</tr>
</tbody>
</table>
Resources Department 100% of product 50% of product
cost up to cost up to
$2,000 $1,000
Energy Star Heat Pump Water
Heater $700 $350
Electric Vehicle Ready 100% of product 50% of product
cost up to cost up to
$3,000 $1,500;

(4) for the construction of a new sustainable
residential building that is broadband ready and electric
vehicle ready, 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:

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Platinum</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>Emerald Level</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Up to 2,000</td>
<td>$2.00; and</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
</table>
Occupied per Square
Square Footage Foot

Fully Electric Building Up to 2,000 $1.00
Zero Net Carbon, Energy,
Water and Waste Certified Up to 2,000 $1.00; 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:

<table>
<thead>
<tr>
<th>Product</th>
<th>Amount of Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air</td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>Affordable $1,000 Non-Affordable $500</td>
</tr>
<tr>
<td>Energy Star Ground</td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>Affordable $2,000 Non-Affordable $1,000</td>
</tr>
<tr>
<td>Energy Star Windows and Doors</td>
<td>100% of product cost up to $1,000</td>
</tr>
<tr>
<td>Insulation Improvements That Meet Rules of the</td>
<td>50% of product cost up to $500</td>
</tr>
</tbody>
</table>

.218390.9
Energy, Minerals and Natural Resources Department 100% of product 50% of product cost up to cost up to $2,000 $1,000

| Energy Star Heat Pump Water                      |  |  |
|-------------------------------------------------|  |  |
| Heater                                          | $700 | $350 |
| Electric Vehicle Ready                          | $1,000 | $500 |

C. A person who 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 complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the application is made meets the requirements of this section for a 2021 sustainable building tax credit, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection D of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building, a calculation of the maximum amount of 2021 tax credit.
sustainable building tax credit for which the building owner would be eligible, the identification number, date of issuance and the first taxable year that the credit shall be claimed. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2021, 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.

D. Except as provided in Subsection E of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2021 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 dollars ($1,000,000) with
respect to the construction of new sustainable commercial buildings;

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

(3) one hundred fifty thousand dollars ($150,000) with respect to the construction of new sustainable residential buildings that are manufactured housing;

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

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

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

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

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

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

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

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

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

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

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

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

M. For the purposes of this section:
   (1) "broadband ready" means a building with an
internet connection capable of connecting to a broadband
provider;
   (2) "electric vehicle ready" means a property
that for commercial buildings provides at least ten percent of
parking spaces and for residential buildings at least one
parking space with one forty-ampere, two-hundred-eight-volt or
two-hundred-forty-volt dedicated branch circuit for servicing
electric vehicles that terminates in a suitable termination
point, such as a receptacle or junction box, and is located in
reasonably close proximity to the proposed location of the
parking spaces;

(3) "emerald level" means the emerald level
certification standard adopted by build green New Mexico, which
includes water conservation standards and meets LEED platinum
standards;

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

(5) "Energy Star" means products and devices
certified under the energy star program administered by United
States environmental protection agency and United States
department of energy;

(6) "fully electric building" means a building
that uses a permanent supply of electricity as the source of
energy for all space heating, water heating, including pools
and spas, cooking appliances and clothes drying appliances and has no natural gas or propane plumbing installed in the building;

(7) "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;

(8) "LEED-CI platinum" means the LEED rating system for commercial interiors in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(9) "LEED-CS platinum" means the LEED rating system for the core and shell of buildings in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED-EB platinum" means the LEED rating system for existing buildings in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(11) "LEED-H platinum" means the LEED rating system for homes in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(12) "LEED-NC platinum" means the LEED rating system for new buildings and major renovations in compliance with, or exceeding, the highest rating awarded by the LEED certification process;
(13) "low-income taxpayer" means a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States department of health and human services;

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

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

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

(a) the United States green building council for those buildings obtaining LEED certification;
(b) the administrators of the build
green New Mexico rating system for those homes obtaining build

green New Mexico certification; and

(c) the United States environmental

protection agency for Energy Star-certified manufactured homes;

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

(17) "sustainable building" means either a

sustainable commercial building or a sustainable residential

building;

(18) "sustainable commercial building" means a

multifamily dwelling unit that is certified as LEED-H platinum

or emerald level and has achieved an energy rating system index

of forty or lower as developed by the residential energy

services network or a building that:

(a) is certified at LEED-NC platinum,

LEED-EB platinum, LEED-CS platinum or LEED-CI platinum;

(b) achieves any prerequisite for and at

least one point related to commissioning under the LEED energy

and atmosphere category, if included in the applicable rating

system; and

(c) has reduced energy consumption

beginning January 1, 2012 by forty percent based on the

national average for that building type as published by the

United States department of energy as substantiated by the

United States environmental protection agency target finder

.218390.9

- 30 -
energy performance results form, dated no sooner than the schematic design phase of development;

    (19) "sustainable residential building" means:

        (a) a building used as a single-family residence that: 1) is certified as LEED-H platinum or emerald level; 2) has achieved a home energy rating system index of forty 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;

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

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

(22) "zero net carbon, energy, water and waste
certified" means a building that is certified as LEED zero
carbon by achieving a carbon-dioxide equivalent balance of zero
for the building; LEED zero energy by achieving a source energy
use balance of zero for the building; LEED zero water by
achieving a potable water use balance of zero for the building;
and LEED zero waste by achieving green building certification
incorporated's true zero waste certification at the platinum
level."

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

"7-2A-28. [NEW] 2015 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be
referred to as the "[new] 2015 sustainable building tax
credit". The [new] 2015 sustainable building tax credit shall
be available for the construction in New Mexico of a
sustainable building, the renovation of an existing building in
New Mexico into a sustainable building or the permanent
installation of manufactured housing, regardless of where the
housing is manufactured, that is a sustainable building;
provided that the construction, renovation or installation
commences prior to the effective date of this 2021 act and is
completed prior to January 1, 2022. The tax credit provided in
this section may not be claimed with respect to the same
sustainable building for which the [new] 2015 sustainable building tax credit provided in the Income Tax Act or the 2021 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the [new] 2015 sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

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

D. For taxable years ending on or before December 31, 2026, the [new] 2015 sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

<table>
<thead>
<tr>
<th>LEED Rating Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Silver</td>
<td>First 10,000</td>
<td>$3.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.75</td>
</tr>
<tr>
<td></td>
<td>First 10,000</td>
<td>Next 40,000</td>
</tr>
<tr>
<td>--------</td>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>LEED-NC Gold</td>
<td>$4.75</td>
<td>$2.00</td>
</tr>
<tr>
<td>LEED-NC Platinum</td>
<td>$6.25</td>
<td>$3.25</td>
</tr>
<tr>
<td>LEED-EB or CS Silver</td>
<td>$2.50</td>
<td>$1.25</td>
</tr>
<tr>
<td>LEED-EB or CS Gold</td>
<td>$3.35</td>
<td>$1.40</td>
</tr>
<tr>
<td>LEED-EB or CS Platinum</td>
<td>$4.40</td>
<td>$2.30</td>
</tr>
<tr>
<td>LEED-CI Silver</td>
<td>$1.40</td>
<td>$ .70</td>
</tr>
</tbody>
</table>
Over 50,000
up to 500,000 $ .30
LEED-CI Gold
First 10,000 $1.90
Next 40,000 $ .80
Over 50,000
up to 500,000 $ .40
LEED-CI Platinum
First 10,000 $2.50
Next 40,000 $1.30
Over 50,000
up to 500,000 $ .80.

E. For taxable years ending on or before December 31, 2026, the [new] 2015 sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

<table>
<thead>
<tr>
<th>Rating System/Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Silver or Build</td>
<td>Up to 2,000</td>
<td>$3.00</td>
</tr>
<tr>
<td>Green NM Silver</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LEED-H Gold or Build</td>
<td>Up to 2,000</td>
<td>$4.50</td>
</tr>
<tr>
<td>Green NM Gold</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LEED-H Platinum or Build</td>
<td>Up to 2,000</td>
<td>$6.50</td>
</tr>
<tr>
<td>Green NM Emerald</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Up to 2,000</td>
<td>$3.00</td>
</tr>
</tbody>
</table>
F. A person that is a building owner may apply for a certificate of eligibility for the 2015 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of 2015 sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2017 but prior to January 1, 2022, 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 [new] 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 Income 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 dollars ($375,000) with respect to sustainable residential buildings that are manufactured housing.

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

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

J. To be eligible for the [new] 2015 sustainable building tax credit, the building owner shall provide to the .218390.9

- 38 -
taxation and revenue department a certificate of eligibility
issued by the energy, minerals and natural resources department
pursuant to the requirements of Subsection F of this section
and any other information the taxation and revenue department
may require to determine the amount of the tax credit for which
the building owner is eligible.

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

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

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

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

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

N. A taxpayer that otherwise qualifies and claims a
[new] 2015 sustainable building tax credit with respect to a
sustainable building owned by a partnership or other business
association of which the taxpayer is a member may claim a
credit only in proportion to that taxpayer's interest in the
partnership or association. The total credit claimed in the
aggregate by all members of the partnership or association with
respect to the sustainable building shall not exceed the amount
of the credit that could have been claimed by a sole owner of
the property.

O. The department shall compile an annual report on
.218390.9

- 40 -
the [new] 2015 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

P. For the purposes of this section:

1. "build green New Mexico rating system" means the certification standards adopted by build green New 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 multisectioned home that is:

(a) a manufactured home or modular home;

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

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Act of 1973, as amended.
Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and

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

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

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

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

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

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

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

(15) "sustainable commercial building" means a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating system, that is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher and has achieved a home energy rating system index of .218390.9
sixty or lower as developed by the residential energy services network or a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED silver or higher;
(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and
(c) has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:
    (a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; 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

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

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

"[NEW MATERIAL] 2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, 2027, a taxpayer that is a building owner and files a corporate income tax return is .218390.9
eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2021 sustainable building tax credit provided in the Income Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

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, 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:

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>.218390.9</td>
<td>- 46 -</td>
<td></td>
</tr>
</tbody>
</table>
Square Footage 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; and

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>First 50,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.50</td>
</tr>
<tr>
<td>Zero Net Carbon, Energy, Water and Waste Certified</td>
<td>First 50,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
</tbody>
</table>
(2) for the renovation of a commercial building with twenty thousand square feet or more of space in which temperature is controlled and that 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:

<table>
<thead>
<tr>
<th>Product</th>
<th>Affordable Housing</th>
<th>Non-Affordable Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air Source Heat Pump</td>
<td>$1,000</td>
<td>$500</td>
</tr>
</tbody>
</table>

up to 200,000 $0.50;
Energy Star Ground
Source Heat Pump $2,000 $1,000

Energy Star
Windows and Doors 100% of product 50% of product
cost up to cost up to
$1,000 $500

Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department 100% of product 50% of product
cost up to cost up to
$2,000 $1,000

Energy Star Heat Pump Water Heater $700 $350
Electric Vehicle Ready 100% of product 50% of product
cost up to cost up to
$3,000 $1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready, 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:

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>.218390.9</td>
<td>- 49 -</td>
<td></td>
</tr>
</tbody>
</table>
Occupied per Square
Square Footage Foot

LEED-H Platinum Up to 2,000 $5.50
Emerald Level Up to 2,000 $5.50
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:

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>Up to 2,000 $1.00</td>
</tr>
<tr>
<td>Zero Net Carbon, Energy, Water and Waste Certified Up to 2,000 $1.00; and</td>
<td></td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Product</th>
<th>Amount of Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affordable Non-Affordable Housing and Housing and Low-Income Non-Low Income</td>
<td></td>
</tr>
</tbody>
</table>

Energy Star Air

.218390.9

- 50 -
Source Heat Pump $1,000 $500
Energy Star Ground
Source Heat Pump $2,000 $1,000
Energy Star
Windows and Doors 100% of product 50% of product cost up to cost up to $1,000 $500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department 100% of product 50% of product cost up to cost up to $2,000 $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 complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this
subsection and that the building with respect to which the
application is made meets the requirements of this section for
a 2021 sustainable building tax credit, the energy, minerals
and natural resources department may issue a certificate of
eligibility to the building owner, subject to the limitations
in Subsection D of this section. The certificate shall include
the rating system certification level awarded to the building,
the amount of qualified occupied square footage in the
building, a calculation of the maximum amount of 2021
sustainable building tax credit for which the building owner
would be eligible, the identification number, date of issuance
and the first taxable year that the credit shall be claimed.
The energy, minerals and natural resources department may issue
rules governing the procedure for administering the provisions
of this subsection. If the certification level for the
sustainable residential building is awarded on or after January
1, 2021, 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.
D. Except as provided in Subsection E of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2021 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of:

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

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

(3) one hundred fifty thousand dollars ($150,000) with respect to the construction of new sustainable residential buildings that are manufactured housing;

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

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

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

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

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

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

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

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

I. If the sum of all 2021 sustainable building tax
credits that can be applied to a taxable year for a taxpayer,
calculated according to Paragraph (1) or (2) of Subsection H of
this section, exceeds the taxpayer's corporate income tax
liability for that taxable year, the excess may be carried
forward for a period of up to seven years.
J. A taxpayer that otherwise qualifies and claims a 2021 sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

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

L. For the purposes of this section:

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

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

(3) "emerald level" means the emerald level
certification standard adopted by build green New Mexico, which
includes water conservation standards and meets LEED platinum
standards;

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

(5) "Energy Star" means products and devices
certified under the energy star program administered by United
States environmental protection agency and United States
department of energy;

(6) "fully electric building" means a building
that uses a permanent supply of electricity as the source of
energy for all space heating, water heating, including pools
and spas, cooking appliances and clothes drying appliances and
has no natural gas or propane plumbing installed in the
building;

(7) "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;

(8) "LEED-CI platinum" means the LEED rating
system for commercial interiors in compliance with, or
exceeding, the highest rating awarded by the LEED certification
process;

(9) "LEED-CS platinum" means the LEED rating
system for the core and shell of buildings in compliance with,
or exceeding, the highest rating awarded by the LEED
certification process;

(10) "LEED-EB platinum" means the LEED rating
system for existing buildings in compliance with, or exceeding,
the highest rating awarded by the LEED certification process;

(11) "LEED-H platinum" means the LEED rating
system for homes in compliance with, or exceeding, the highest
rating awarded by the LEED certification process;

(12) "LEED-NC platinum" means the LEED rating
system for new buildings and major renovations in compliance
with, or exceeding, the highest rating awarded by the LEED certification process;

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

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

(a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

(18) "sustainable commercial building" means a
multifamily dwelling unit that is certified as LEED-H platinum
or emerald level and has achieved an energy rating system index
of forty or lower as developed by the residential energy
services network or a building that:

(a) is certified at LEED-NC platinum,
LEED-EB platinum, LEED-CS platinum or LEED-CI platinum;

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

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

(19) "sustainable residential building" means:
(a) a building used as a single-family
residence that: 1) is certified as LEED-H platinum or emerald
level; 2) has achieved a home energy rating system index of
forty 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;

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

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

(22) "zero net carbon, energy, water and waste
certified" means a building that is certified as LEED zero
carbon by achieving a carbon-dioxide equivalent balance of zero
for the building; LEED zero energy by achieving a source energy
use balance of zero for the building; LEED zero water by
achieving a potable water use balance of zero for the building;
and LEED zero waste by achieving green building certification
incorporated's true zero waste certification at the platinum
level."

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