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.  2015 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2015 sustainable building tax credit". The 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 project is completed prior to April 1, 2023. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 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 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 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, 2024, the 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 per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Silver</td>
<td>First 10,000</td>
<td>$3.50</td>
</tr>
<tr>
<td>LEED-NC Gold</td>
<td>LEED-NC Platinum</td>
<td>LEED-EB or CS Silver</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>First 10,000 $4.75</td>
<td>First 10,000 $6.25</td>
<td>First 10,000 $2.50</td>
</tr>
<tr>
<td>Next 40,000 $2.00</td>
<td>Next 40,000 $3.25</td>
<td>Next 40,000 $1.25</td>
</tr>
<tr>
<td>Over 50,000 $1.00</td>
<td>Over 50,000 $1.00</td>
<td>Over 50,000 $0.50</td>
</tr>
<tr>
<td>up to 500,000 $0.70</td>
<td>up to 500,000 $1.00</td>
<td>up to 500,000 $0.50</td>
</tr>
<tr>
<td>Next 40,000 $1.75</td>
<td>Next 40,000 $1.00</td>
<td>Next 40,000 $0.50</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, 2024, the 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 per 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>
</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 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
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 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 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 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 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 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 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 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 2015 sustainable
building tax credit that would have been allowed on a joint
return.

P. The department shall compile an annual report
on the 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.

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
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:

"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, 2030, 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 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:

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</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></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>
</tbody>
</table>
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
Next 40,000 $1.00
Over 50,000
up to 200,000 $0.25

LEED-EB or -CS Gold
First 10,000 $2.00
Next 40,000 $1.00
Over 50,000
up to 200,000 $0.25

LEED-CI Gold
First 10,000 $0.90
Next 40,000 $0.40
Over 50,000
up to 200,000 $0.10; 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>
</tbody>
</table>
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:

<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>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Ground Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Windows and Doors</td>
<td>100% of product</td>
<td>50% of product</td>
</tr>
<tr>
<td>Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department</td>
<td>100% of product</td>
<td>50% of product</td>
</tr>
<tr>
<td>Energy Star Heat Pump Water Heater</td>
<td>$700</td>
<td>$350</td>
</tr>
<tr>
<td>Electric Vehicle Ready</td>
<td>100% of product</td>
<td>50% of product</td>
</tr>
<tr>
<td>(4) for the construction of a new</td>
<td>$3,000</td>
<td>$1,500;</td>
</tr>
</tbody>
</table>

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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:

<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>LEED-H Gold</td>
<td>Up to 2,000</td>
<td>$3.80</td>
</tr>
<tr>
<td>Build Green Emerald</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>Build Green Gold</td>
<td>Up to 2,000</td>
<td>$3.80</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>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>Up to 2,000</td>
<td>$1.00</td>
</tr>
</tbody>
</table>
| 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:

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

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 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) two hundred fifty thousand dollars ($250,000) 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) two million nine hundred thousand dollars ($2,900,000) 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 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. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2021 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.

M. 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.

N. For the purposes of this section:

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

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

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

(4) "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;

(5) "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;

(6) "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 that meet the specified
performance requirements at the installed locations;

(7) "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, in the case of a new building, has no
natural gas or propane plumbing installed in the building or,
in the case of an existing building, has no connected natural
gas or propane plumbing;

(8) "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;

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

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

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

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

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

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

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

(16) "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;

(17) "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;

(18) "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;

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

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

(21) "sustainable commercial building" means:

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

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

(c) a building that: 1) is certified
at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold
levels; 2) 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 3) 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 energy
performance results form, dated no sooner than the schematic
design phase of development;

(22) "sustainable residential building"
means:

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

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

(24) "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;

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

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

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

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

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

A. The tax credit provided by this section may be referred to as the "2015 sustainable building tax credit". The 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 project is completed prior to April 1, 2023. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 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 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 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, 2024, the 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>Category</td>
<td>Certification Level</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>1</td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>Next 40,000</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>Over 50,000</td>
</tr>
<tr>
<td>6</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>Next 40,000</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>Over 50,000</td>
</tr>
<tr>
<td>10</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>LEED-EB or CS Silver</td>
<td>First 10,000</td>
</tr>
<tr>
<td>12</td>
<td></td>
<td>Next 40,000</td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>Over 50,000</td>
</tr>
<tr>
<td>14</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>LEED-EB or CS Gold</td>
<td>First 10,000</td>
</tr>
<tr>
<td>16</td>
<td></td>
<td>Next 40,000</td>
</tr>
<tr>
<td>17</td>
<td></td>
<td>Over 50,000</td>
</tr>
<tr>
<td>18</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>LEED-EB or CS Platinum</td>
<td>First 10,000</td>
</tr>
<tr>
<td>20</td>
<td></td>
<td>Next 40,000</td>
</tr>
<tr>
<td>21</td>
<td></td>
<td>Over 50,000</td>
</tr>
<tr>
<td>22</td>
<td>up to 500,000</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>LEED-CI Silver</td>
<td>First 10,000</td>
</tr>
<tr>
<td>24</td>
<td></td>
<td>Next 40,000</td>
</tr>
</tbody>
</table>

*HTRC/HB 15/a Page 37*
E. For taxable years ending on or before December 31, 2024, the 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 per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Silver or Build Green NM Silver</td>
<td>Up to 2,000</td>
<td>$3.00</td>
</tr>
<tr>
<td>LEED-H Gold or Build Green NM Gold</td>
<td>Up to 2,000</td>
<td>$4.50</td>
</tr>
<tr>
<td>LEED-H Platinum or Build Green NM Emerald</td>
<td>Up to 2,000</td>
<td>$6.50</td>
</tr>
</tbody>
</table>
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 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 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 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 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 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 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 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 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 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 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 the 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 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 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:

"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, 2030, a taxpayer that is a building owner and files a corporate 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 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 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:

<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 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 up to 200,000</td>
<td>$0.35</td>
</tr>
<tr>
<td>LEED-CI Platinum</td>
<td>First 10,000</td>
<td>$1.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$0.40</td>
</tr>
<tr>
<td></td>
<td>Over 50,000 up to 200,000</td>
<td>$0.30</td>
</tr>
<tr>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
<td>$3.00</td>
</tr>
<tr>
<td>Additional Criteria</td>
<td>Qualified Occupied</td>
<td>Tax Credit per Square Foot</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>--------------------</td>
<td>---------------------------</td>
</tr>
<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 Carbon, Energy, Waste or Water Certified</td>
<td>First 50,000</td>
<td>$0.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.10</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:

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

<table>
<thead>
<tr>
<th>Product</th>
<th>Affordable Housing</th>
<th>Non-Affordable Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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 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:
<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Platinum</td>
<td>Up to 2,000 $5.50</td>
</tr>
<tr>
<td>LEED-H Gold</td>
<td>Up to 2,000 $3.80</td>
</tr>
<tr>
<td>Build Green Emerald</td>
<td>Up to 2,000 $5.50</td>
</tr>
<tr>
<td>Build Green Gold</td>
<td>Up to 2,000 $3.80</td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Up to 2,000 $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 Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>Up to 2,000 $1.00</td>
</tr>
<tr>
<td>Zero Carbon, Energy,</td>
<td></td>
</tr>
<tr>
<td>Waste or Water Certified</td>
<td>Up to 2,000 $0.25; and</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</td>
<td>Non-Affordable</td>
</tr>
<tr>
<td></td>
<td>Housing and</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td>Low-Income</td>
</tr>
<tr>
<td>Energy Star Air</td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
</tr>
<tr>
<td>Energy Star Ground</td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
</tr>
<tr>
<td>Energy Star</td>
<td></td>
</tr>
<tr>
<td>Windows and Doors</td>
<td>100% of product</td>
</tr>
<tr>
<td>cost up to</td>
<td>cost up to</td>
</tr>
<tr>
<td>$1,000</td>
<td>$500</td>
</tr>
<tr>
<td>Insulation Improvements That</td>
<td></td>
</tr>
<tr>
<td>Meet Rules of the</td>
<td></td>
</tr>
<tr>
<td>Energy, Minerals and Natural</td>
<td></td>
</tr>
<tr>
<td>Resources Department</td>
<td>100% of product</td>
</tr>
<tr>
<td>cost up to</td>
<td>cost up to</td>
</tr>
<tr>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Heat Pump Water</td>
<td></td>
</tr>
<tr>
<td>Heater</td>
<td>$700</td>
</tr>
<tr>
<td>Electric Vehicle Ready</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

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) two hundred fifty thousand dollars
($250,000) 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) two million nine hundred thousand
dollars ($2,900,000) 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. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2021 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. 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) "build green emerald" means the emerald level certification standard adopted by build green New Mexico, which includes water conservation standards and uses forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries
division of the regulation and licensing department;

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

(4) "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;

(5) "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 energy.
exported energy;

(6) "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 that meet the specified performance requirements at the installed locations;

(7) "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, in the case of a new building, has no natural gas or propane plumbing installed in the building or, in the case of an existing building, has no connected natural gas or propane plumbing;

(8) "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;

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

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

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

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

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

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

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

(16) "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;

(17) "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;
(18) "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;
(19) "person" does not include state, local
government, public school district or tribal agencies;
(20) "sustainable building" means either a
sustainable commercial building or a sustainable residential
building;
(21) "sustainable commercial building"
means:
(a) a commercial building that is
certified as any LEED platinum or gold for commercial
buildings;

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

(c) a building that: 1) is certified at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels; 2) 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 3) 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 energy performance results form, dated no sooner than the schematic design phase of development;
"sustainable residential building" means:

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

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

   (24) "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;

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

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

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

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

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