

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 15

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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".

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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 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 STBTC~~→has secured a building permit prior to March 25, 2021 and is completed prior to April 1, 2022~~←STBTC STBTC→is completed prior to April 1, 2023←STBTC . 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

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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, ~~STBTC~~²⁰²⁶~~STBTC~~ ~~STBTC~~²⁰²⁴~~STBTC~~ , 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:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000 up to 500,000	\$1.00

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LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000	
	up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$.50
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

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Next 40,000 \$1.30
 Over 50,000
 up to 500,000 \$.80.

E. For taxable years ending on or before December 31, STBTC→2026←STBTC STBTC→2024←STBTC , 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:

Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square 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

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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 April 1, STBTC→2022←STBTC STBTC→2023←STBTC, 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

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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:

(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,

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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

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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

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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

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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.

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

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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

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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

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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 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

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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:

"[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, ~~STBTC~~→2027←~~STBTC~~ STBTC→2030←~~STBTC~~ , a taxpayer who is a building owner and

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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 ~~STBTC~~ **and is completed on or after April 1, 2023** ~~STBTC~~, 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

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on the following chart:

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

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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:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	First 50,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.50
Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
	Over 50,000	
	up to 200,000	\$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be calculated by multiplying two dollars twenty-five cents (\$2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars (\$150,000) per renovation; provided that the renovation reduces

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total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

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

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	STBTC→\$1,000←STBTC	STBTC→\$500←STBTC
	STBTC→\$2,000←STBTC	STBTC→\$1,000←STBTC
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500

Insulation Improvements That Meet Rules of the

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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
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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 STBTC→and is completed on or after April 1, 2023←STBTC , the amount of credit shall be calculated:

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

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

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

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

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

Product	Amount of Credit	
	Affordable	Non-Affordable
	Housing and Low-Income	Housing and Non-Low Income
Energy Star Air Source Heat Pump	STBTC → \$1,000 ← STBTC	STBTC → \$500 ← STBTC
Energy Star Ground Source Heat Pump	STBTC → \$2,000 ← STBTC	STBTC → \$1,000 ← STBTC
Energy Star Source Heat Pump	\$2,000	\$1,000

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

C. A person 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

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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

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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

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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.

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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

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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.

STBTC→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

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transfer. ←STBTC

STBTC → **L.** ←STBTC STBTC → **M.** ←STBTC 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.

STBTC → **M.** ←STBTC STBTC → **N.** ←STBTC 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 STBTC → **prescriptive path of the** ←STBTC 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

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certification standard adopted by build green New Mexico, which includes water conservation standards and uses thirty percent less energy than is required by the STBTC → prescriptive path of the ← STBTC 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

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States environmental protection agency and United States department of energy STBTC→that meet the specified performance requirements at the installed locations←STBTC ;

(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

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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

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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 STBTC → gold and has achieved an energy rating system index of forty or lower; or ← STBTC STBTC → gold and uses at least thirty percent less energy than is required by the prescriptive path of the most current applicable energy conservation code

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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 ←STBTC

(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) STBTC → has achieved a home energy rating system index of forty or lower ←STBTC STBTC → uses at least thirty percent less energy than is required by the

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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←STBTC ; 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

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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. ~~[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

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housing is manufactured, that is a sustainable building;
 provided that the construction, renovation or installation
 project STBTC ~~→has secured a building permit prior to March 25,
 2021 and is completed prior to April 1, 2022←~~ STBTC STBTC ~~→is
 completed prior to April 1, 2023←~~ STBTC . 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, STBTC ~~→2026←~~ STBTC STBTC ~~→2024←~~ STBTC , 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

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amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000	
	up to 500,000	\$.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000	
	up to 500,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000	
	up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$.50
LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000	
	up to 500,000	\$.70

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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, STBTC→2026←STBTC STBTC→2024←STBTC , 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:

Rating System/Level	Qualified Occupied	Tax Credit per Square
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	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

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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 April 1, STBTC→2022←STBTC STBTC→2023←STBTC , 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

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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

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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

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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 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

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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

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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;

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(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;

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(16) "sustainable residential building" means:

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

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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, ~~STBTC~~²⁰²⁷~~STBTC~~ ~~STBTC~~²⁰³⁰~~STBTC~~, 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

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credit shall be determined as follows:

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

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

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

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	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:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	First 50,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.50
Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
	Over 50,000	
	up to 200,000	\$0.10;

(2) for the renovation of a commercial

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

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

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air		
Source Heat Pump	STBTC → \$1,000 ← STBTC	STBTC → \$500 ← STBTC
	STBTC → \$2,000 ← STBTC	STBTC → \$1,000 ← STBTC

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

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready ~~STBTC~~ **and is completed on or after April 1, 2023** ~~STBTC~~ , 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:

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

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

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

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

Product	Amount of Credit	
	Affordable	Non-Affordable

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

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

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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

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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-

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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

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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

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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.

~~STBTC~~→**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**

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or transfer within ten days of the sale, exchange or transfer.

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.

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;

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(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 STBTC→prescriptive path of the←STBTC 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 exported energy;

(6) "Energy Star" means products and devices

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certified under the energy star program administered by United States environmental protection agency and United States department of energy STBTC→that meet the specified performance requirements at the installed locations←STBTC ;

(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;

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(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

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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 STBTC → gold and has achieved an energy rating system index of forty or lower; or ← STBTC STBTC → gold and uses at least thirty percent less energy than is required by the prescriptive path

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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 ← STBTC

(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) STBTC → ~~has achieved a home energy rating system index of forty or lower~~ ← STBTC STBTC → uses

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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←STBTC ; 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

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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.

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