

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 15

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

AN ACT

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

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

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

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

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

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1 be available for the construction in New Mexico of a
2 sustainable building, the renovation of an existing building in
3 New Mexico into a sustainable building or the permanent
4 installation of manufactured housing, regardless of where the
5 housing is manufactured, that is a sustainable building;
6 provided that the construction, renovation or installation
7 project has secured a building permit prior to March 25, 2021
8 and is completed prior to April 1, 2022. The tax credit
9 provided in this section may not be claimed with respect to the
10 same sustainable building for which the [~~new~~] 2015 sustainable
11 building tax credit provided in the Corporate Income and
12 Franchise Tax Act or the 2021 sustainable building tax credit
13 pursuant to the Income Tax Act or the Corporate Income and
14 Franchise Tax Act has been claimed.

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

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

24 D. For taxable years ending on or before
25 December 31, 2026, the [~~new~~] 2015 sustainable building tax

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1 credit may be claimed with respect to a sustainable commercial
 2 building. The credit shall be calculated based on the
 3 certification level the building has achieved in the LEED green
 4 building rating system and the amount of qualified occupied
 5 square footage in the building, as indicated on the following
 6 chart:

7 LEED Rating Level	8 Qualified Occupied Square Footage	9 Tax Credit per Square Foot
10 LEED-NC Silver	11 First 10,000	12 \$3.50
	13 Next 40,000	14 \$1.75
	15 Over 50,000	16 \$.70
17 LEED-NC Gold	18 First 10,000	19 \$4.75
	20 Next 40,000	21 \$2.00
	22 Over 50,000	23 \$1.00
24 LEED-NC Platinum	25 First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	\$.50
	up to 500,000	\$.50

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underscored material = new
 [bracketed material] = delete

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1	LEED-EB or CS Gold	First 10,000	\$3.35
2		Next 40,000	\$1.40
3		Over 50,000	
4		up to 500,000	\$.70
5	LEED-EB or CS Platinum	First 10,000	\$4.40
6		Next 40,000	\$2.30
7		Over 50,000	
8		up to 500,000	\$1.40
9	LEED-CI Silver	First 10,000	\$1.40
10		Next 40,000	\$.70
11		Over 50,000	
12		up to 500,000	\$.30
13	LEED-CI Gold	First 10,000	\$1.90
14		Next 40,000	\$.80
15		Over 50,000	
16		up to 500,000	\$.40
17	LEED-CI Platinum	First 10,000	\$2.50
18		Next 40,000	\$1.30
19		Over 50,000	
20		up to 500,000	\$.80.

21 E. For taxable years ending on or before December
22 31, 2026, the ~~[new]~~ 2015 sustainable building tax credit may be
23 claimed with respect to a sustainable residential building.
24 The credit shall be calculated based on the amount of qualified
25 occupied square footage, as indicated on the following chart:

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1	Rating System/Level	Qualified	Tax Credit
2		Occupied	per Square
3		Square Footage	Foot
4	LEED-H Silver or Build	Up to 2,000	\$3.00
5	Green NM Silver		
6	LEED-H Gold or Build	Up to 2,000	\$4.50
7	Green NM Gold		
8	LEED-H Platinum or Build	Up to 2,000	\$6.50
9	Green NM Emerald		
10	Manufactured Housing	Up to 2,000	\$3.00.

11 F. A person that is a building owner may apply for a
 12 certificate of eligibility for the ~~[new]~~ 2015 sustainable
 13 building tax credit from the energy, minerals and natural
 14 resources department after the construction, installation or
 15 renovation of the sustainable building is complete.

16 Applications shall be considered in the order received. If the
 17 energy, minerals and natural resources department determines
 18 that the building owner meets the requirements of this
 19 subsection and that the building with respect to which the tax
 20 credit application is made meets the requirements of this
 21 section as a sustainable residential building or a sustainable
 22 commercial building, the energy, minerals and natural resources
 23 department may issue a certificate of eligibility to the
 24 building owner, subject to the limitations in Subsection G of
 25 this section. The certificate shall include the rating system

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1 certification level awarded to the building, the amount of
2 qualified occupied square footage in the building and a
3 calculation of the maximum amount of [~~new~~] 2015 sustainable
4 building tax credit for which the building owner would be
5 eligible. The energy, minerals and natural resources
6 department may issue rules governing the procedure for
7 administering the provisions of this subsection. If the
8 certification level for the sustainable residential building is
9 awarded on or after January 1, 2017 but prior to April 1, 2022,
10 the energy, minerals and natural resources department may issue
11 a certificate of eligibility to a building owner who is:

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

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

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

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

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

7 (3) three hundred seventy-five thousand
8 dollars (\$375,000) with respect to sustainable residential
9 buildings that are manufactured housing.

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

23 I. Installation of a solar thermal system or a
24 photovoltaic system eligible for the solar market development
25 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be

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1 used as a component of qualification for the rating system
2 certification level used in determining eligibility for the
3 [~~new~~] 2015 sustainable building tax credit, unless a solar
4 market development tax credit pursuant to Section 7-2-18.14
5 NMSA 1978 has not been claimed with respect to that system and
6 the building owner and the taxpayer claiming the [~~new~~] 2015
7 sustainable building tax credit certify that such a tax credit
8 will not be claimed with respect to that system.

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

17 K. If the requirements of this section have been
18 complied with, the department shall issue to the building owner
19 a document granting a [~~new~~] 2015 sustainable building tax
20 credit. The document shall be numbered for identification and
21 declare its date of issuance and the amount of the tax credit
22 allowed pursuant to this section. The document may be
23 submitted by the building owner with that taxpayer's income tax
24 return, if applicable, or may be sold, exchanged or otherwise
25 transferred to another taxpayer. The parties to such a

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1 transaction shall notify the department of the sale, exchange
2 or transfer within ten days of the sale, exchange or transfer.

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

7 (1) less than one hundred thousand dollars
8 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)
9 shall be applied against the taxpayer's income tax liability
10 for the taxable year for which the credit is approved and the
11 next three subsequent taxable years as needed depending on the
12 amount of credit; or

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

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

25 N. A taxpayer who otherwise qualifies and claims a

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1 [new] 2015 sustainable building tax credit with respect to a
2 sustainable building owned by a partnership or other business
3 association of which the taxpayer is a member may claim a
4 credit only in proportion to that taxpayer's interest in the
5 partnership or association. The total credit claimed in the
6 aggregate by all members of the partnership or association with
7 respect to the sustainable building shall not exceed the amount
8 of the credit that could have been claimed by a sole owner of
9 the property.

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

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

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1 whether the tax credit is performing the purpose for which it
2 was created.

3 Q. For the purposes of this section:

4 (1) "build green New Mexico rating system"
5 means the certification standards adopted by build green New
6 Mexico in November 2014, which include water conservation
7 standards;

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

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

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

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

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

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

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

25 (9) "LEED platinum" means the rating in

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

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

6 (11) "manufactured housing" means a
7 multisectioned home that is:

8 (a) a manufactured home or modular home;

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

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

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

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

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

25 (b) the administrators of the build

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

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

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

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

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

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

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

25 (c) has reduced energy consumption

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1 beginning January 1, 2012, by sixty percent based on the
2 national average for that building type as published by the
3 United States department of energy as substantiated by the
4 United States environmental protection agency target finder
5 energy performance results form, dated no sooner than the
6 schematic design phase of development;

7 (16) "sustainable residential building" means:

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

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

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1 agency;

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

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

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

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

12 A. The tax credit provided by this section may be
13 referred to as the "2021 sustainable building tax credit". For
14 taxable years prior to January 1, 2027, a taxpayer who is a
15 building owner and files an income tax return is eligible to be
16 granted a 2021 sustainable building tax credit by the
17 department if the requirements of this section are met. The
18 2021 sustainable building tax credit shall be available for the
19 construction in New Mexico of a sustainable building, the
20 renovation of an existing building in New Mexico, the permanent
21 installation of manufactured housing, regardless of where the
22 housing is manufactured, that is a sustainable building or the
23 installation of energy-conserving products to existing
24 buildings in New Mexico, as provided in this section. The tax
25 credit provided in this section may not be claimed with respect

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

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

8 (1) for the construction of a new sustainable
9 commercial building that is broadband ready and electric
10 vehicle ready, the amount of credit shall be calculated:

11 (a) based on the certification level the
12 building has achieved in the rating level and the amount of
13 qualified occupied square footage in the building, as indicated
14 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

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

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1 Zero Carbon, Energy,

2 Waste or Water Certified First 50,000 \$0.25

3 Over 50,000

4 up to 200,000 \$0.10;

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

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

25 Product Amount of Credit

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1		Affordable	Non-Affordable
2		Housing	Housing
3	Energy Star Air		
4	Source Heat Pump	\$1,000	\$500
5	Energy Star Ground		
6	Source Heat Pump	\$2,000	\$1,000
7	Energy Star		
8	Windows and Doors	100% of product	50% of product
9		cost up to	cost up to
10		\$1,000	\$500
11	Insulation Improvements That		
12	Meet Rules of the		
13	Energy, Minerals and Natural		
14	Resources Department	100% of product	50% of product
15		cost up to	cost up to
16		\$2,000	\$1,000
17	Energy Star Heat Pump Water		
18	Heater	\$700	\$350
19	Electric Vehicle Ready	100% of product	50% of product
20		cost up to	cost up to
21		\$3,000	\$1,500;

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

(a) based on the certification level the

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1 building has achieved in the rating level and the amount of
2 qualified occupied square footage in the building, as indicated
3 on the following chart:

4 Rating Level	5 Qualified Occupied	6 Tax Credit per Square
	7 Square Footage	8 Foot
9 LEED-H Platinum	10 Up to 2,000	11 \$5.50
12 LEED-H Gold	13 Up to 2,000	14 \$3.80
15 Build Green Emerald	16 Up to 2,000	17 \$5.50
18 Build Green Gold	19 Up to 2,000	20 \$3.80
21 Manufactured Housing	22 Up to 2,000	23 \$2.00; and

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

15 Additional Criteria	16 Qualified Occupied	17 Tax Credit per Square
	18 Square Footage	19 Foot
20 Fully Electric Building	21 Up to 2,000	22 \$1.00
23 Zero Carbon, Energy, 24 Waste or Water Certified	25 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

underscoring material = new
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1 taxpayer, per product installed:

2	Product	Amount of Credit	
3		Affordable	Non-Affordable
4		Housing and	Housing and
5		Low-Income	Non-Low Income
6	Energy Star Air		
7	Source Heat Pump	\$1,000	\$500
8	Energy Star Ground		
9	Source Heat Pump	\$2,000	\$1,000
10	Energy Star		
11	Windows and Doors	100% of	50% of product
12		product cost	cost up to
13		up to \$1,000	\$500
14	Insulation Improvements That		
15	Meet Rules of the		
16	Energy, Minerals and Natural		
17	Resources Department	100% of product	50% of product
18		cost up to	cost up to
19		\$2,000	\$1,000
20	Energy Star Heat Pump Water		
21	Heater	\$700	\$350
22	Electric Vehicle Ready	\$1,000	\$500.

23 C. A person who is a building owner may apply for a
 24 certificate of eligibility for the 2021 sustainable building
 25 tax credit from the energy, minerals and natural resources

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 tax liability.

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

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

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

25 L. The department and the energy, minerals and

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

10 M. For the purposes of this section:

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

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

21 (3) "build green gold" means the gold level
22 certification standard adopted by build green New Mexico, which
23 includes water conservation standards and uses thirty percent
24 less energy than is required by the most current residential
25 energy conservation code promulgated by the construction

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1 industries division of the regulation and licensing department;

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

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

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

23 (7) "fully electric building" means a building
24 that uses a permanent supply of electricity as the source of
25 energy for all space heating, water heating, including pools

1 and spas, cooking appliances and clothes drying appliances and,
2 in the case of a new building, has no natural gas or propane
3 plumbing installed in the building or, in the case of an
4 existing building, has no connected natural gas or propane
5 plumbing;

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

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

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

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

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

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

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

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

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

6 (17) "manufactured housing" means a
7 multisectioned home that is:

8 (a) a manufactured home or modular home;

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

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

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

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

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

25 (b) the administrators of the build

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

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

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

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

10 (21) "sustainable commercial building" means:

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

14 (b) a multifamily dwelling unit that is
15 certified as LEED-H platinum or gold or build green emerald or
16 gold and has achieved an energy rating system index of forty or
17 lower; or

18 (c) a building that: 1) is certified at
19 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;
20 2) achieves any prerequisite for and at least one point related
21 to commissioning under the LEED energy and atmosphere category,
22 if included in the applicable rating system; and 3) has reduced
23 energy consumption beginning January 1, 2012 by forty percent
24 based on the national average for that building type as
25 published by the United States department of energy as

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

4 (22) "sustainable residential building" means:

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

18 (b) manufactured housing that is Energy
19 Star-qualified;

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

23 (24) "WaterSense" means a program created by
24 the federal environmental protection agency that certifies
25 water-using products that meet the environmental protection

1 agency's criteria for efficiency and performance;

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

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

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

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

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

17 "7-2A-28. [~~NEW~~] 2015 SUSTAINABLE BUILDING TAX CREDIT.--

18 A. The tax credit provided by this section may be
19 referred to as the "[~~new~~] 2015 sustainable building tax
20 credit". The [~~new~~] 2015 sustainable building tax credit shall
21 be available for the construction in New Mexico of a
22 sustainable building, the renovation of an existing building in
23 New Mexico into a sustainable building or the permanent
24 installation of manufactured housing, regardless of where the
25 housing is manufactured, that is a sustainable building;

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1 provided that the construction, renovation or installation
 2 project has secured a building permit prior to March 25, 2021
 3 and is completed prior to April 1, 2022. The tax credit
 4 provided in this section may not be claimed with respect to the
 5 same sustainable building for which the ~~[new]~~ 2015 sustainable
 6 building tax credit provided in the Income Tax Act or the 2021
 7 sustainable building tax credit pursuant to the Income Tax Act
 8 or the Corporate Income and Franchise Tax Act has been claimed.

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

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

18 D. For taxable years ending on or before December
 19 31, 2026, the ~~[new]~~ 2015 sustainable building tax credit may be
 20 claimed with respect to a sustainable commercial building. The
 21 credit shall be calculated based on the certification level the
 22 building has achieved in the LEED green building rating system
 23 and the amount of qualified occupied square footage in the
 24 building, as indicated on the following chart:

LEED Rating Level	Qualified	Tax Credit per
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	Occupied	Square Foot
1	Occupied	Square Foot
2	Square Footage	
3	LEED-NC Silver	First 10,000 \$3.50
4		Next 40,000 \$1.75
5		Over 50,000
6		up to 500,000 \$.70
7	LEED-NC Gold	First 10,000 \$4.75
8		Next 40,000 \$2.00
9		Over 50,000
10		up to 500,000 \$1.00
11	LEED-NC Platinum	First 10,000 \$6.25
12		Next 40,000 \$3.25
13		Over 50,000
14		up to 500,000 \$2.00
15	LEED-EB or CS Silver	First 10,000 \$2.50
16		Next 40,000 \$1.25
17		Over 50,000
18		up to 500,000 \$.50
19	LEED-EB or CS Gold	First 10,000 \$3.35
20		Next 40,000 \$1.40
21		Over 50,000
22		up to 500,000 \$.70
23	LEED-EB or CS	
24	Platinum	First 10,000 \$4.40
25		Next 40,000 \$2.30

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1		Over 50,000	
2		up to 500,000	\$1.40
3	LEED-CI Silver	First 10,000	\$1.40
4		Next 40,000	\$.70
5		Over 50,000	
6		up to 500,000	\$.30
7	LEED-CI Gold	First 10,000	\$1.90
8		Next 40,000	\$.80
9		Over 50,000	
10		up to 500,000	\$.40
11	LEED-CI Platinum	First 10,000	\$2.50
12		Next 40,000	\$1.30
13		Over 50,000	
14		up to 500,000	\$.80.

15 E. For taxable years ending on or before December
16 31, 2026, the ~~[new]~~ 2015 sustainable building tax credit may be
17 claimed with respect to a sustainable residential building.

18 The credit shall be calculated based on the amount of qualified
19 occupied square footage, as indicated on the following chart:

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

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1	Green NM Gold		
2	LEED-H Platinum or Build	Up to 2,000	\$6.50
3	Green NM Emerald		
4	Manufactured Housing	Up to 2,000	\$3.00.

5 F. A person that is a building owner may apply for
6 a certificate of eligibility for the ~~[new]~~ 2015 sustainable
7 building tax credit from the energy, minerals and natural
8 resources department after the construction, installation or
9 renovation of the sustainable building is complete.

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

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underscored material = new
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1 administering the provisions of this subsection. If the
2 certification level for the sustainable residential building is
3 awarded on or after January 1, 2017 but prior to April 1, 2022,
4 the energy, minerals and natural resources department may issue
5 a certificate of eligibility to a building owner who is:

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

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

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

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

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

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1 (3) three hundred seventy-five thousand
2 dollars (\$375,000) with respect to sustainable residential
3 buildings that are manufactured housing.

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

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

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1 sustainable building tax credit certify that such a tax credit
2 will not be claimed with respect to that system.

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

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

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

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

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

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

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

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

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

17 P. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

22 (a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

24 (15) "sustainable commercial building" means a
25 multifamily dwelling unit, as registered and certified under

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

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

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

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

21 (16) "sustainable residential building" means:

22 (a) a building used as a single-family
 23 residence as registered and certified under the build green New
 24 Mexico or LEED-H rating systems that: 1) is certified by the
 25 United States green building council as LEED-H silver or higher

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

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

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

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

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

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

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

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

21 (1) for the construction of a new sustainable
22 commercial building that is broadband ready and electric
23 vehicle ready, the amount of credit shall be calculated:

24 (a) based on the certification level the
25 building has achieved in the rating level and the amount of

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1 qualified occupied square footage in the building, as indicated
2 on the following chart:

3 Rating Level	4 Qualified Occupied Square Footage	5 Tax Credit per Square Foot
6 LEED-NC Platinum	7 First 10,000	\$5.25
	8 Next 40,000	\$2.25
	9 Over 50,000 up to 200,000	\$1.00
10 LEED-EB or CS Platinum	11 First 10,000	\$3.40
	12 Next 40,000	\$1.30
	13 Over 50,000 up to 200,000	\$0.35
14 LEED-CI Platinum	15 First 10,000	\$1.50
	16 Next 40,000	\$0.40
	17 Over 50,000 up to 200,000	\$0.30
18 LEED-NC Gold	19 First 10,000	\$3.00
	20 Next 40,000	\$1.00
	21 Over 50,000 up to 200,000	\$0.25
22 LEED-EB or -CS Gold	23 First 10,000	\$2.00
	24 Next 40,000	\$1.00
	25 Over 50,000 up to 200,000	\$0.25

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1	LEED-CI Gold	First 10,000	\$0.90
2		Next 40,000	\$0.40
3		Over 50,000	
4		up to 200,000	\$0.10; and

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

8	Additional Criteria	Qualified	Tax Credit
9		Occupied	per Square
10		Square Footage	Foot
11	Fully Electric Building	First 50,000	\$1.00
12		Over 50,000	
13		up to 200,000	\$0.50
14	Zero Carbon, Energy,		
15	Waste or Water Certified	First 50,000	\$0.25
16		Over 50,000	
17		up to 200,000	\$0.10;

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

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underscored material = new
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1 (\$150,000) per renovation; provided that the renovation reduces
2 total energy and power costs by fifty percent when compared to
3 the most current energy standard for buildings except low-rise
4 residential buildings, as developed by the American society of
5 heating, refrigerating and air-conditioning engineers;

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

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$1,000	\$500
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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underscoring material = new
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1	Energy, Minerals and Natural		
2	Resources Department	100% of product	50% of product
3		cost up to	cost up to
4		\$2,000	\$1,000
5	Energy Star Heat Pump Water		
6	Heater	\$700	\$350
7	Electric Vehicle Ready	100% of product	50% of product
8		cost up to	cost up to
9		\$3,000	\$1,500;

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

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

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

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1 additional criteria and the amount of qualified occupied square
2 footage, as indicated in the following chart:

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

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

15	Product	Amount of Credit	
16		Affordable	Non-Affordable
17		Housing and	Housing and
18		Low-Income	Non-Low Income
19	Energy Star Air		
20	Source Heat Pump	\$1,000	\$500
21	Energy Star Ground		
22	Source Heat Pump	\$2,000	\$1,000
23	Energy Star		
24	Windows and Doors	100% of product	50% of product
25		cost up to	cost up to

underscored material = new
[bracketed material] = delete

1		\$1,000	\$500
2	Insulation Improvements That		
3	Meet Rules of the		
4	Energy, Minerals and Natural		
5	Resources Department	100% of product	50% of product
6		cost up to	cost up to
7		\$2,000	\$1,000
8	Energy Star Heat Pump Water		
9	Heater	\$700	\$350
10	Electric Vehicle Ready	\$1,000	\$500.

11 C. A person that is a building owner may apply for
 12 a certificate of eligibility for the 2021 sustainable building
 13 tax credit from the energy, minerals and natural resources
 14 department after the construction, installation or renovation
 15 of the sustainable building or installation of energy-
 16 conserving products in an existing building is complete.
 17 Applications shall be considered in the order received. If the
 18 energy, minerals and natural resources department determines
 19 that the building owner meets the requirements of this
 20 subsection and that the building with respect to which the
 21 application is made meets the requirements of this section for
 22 a 2021 sustainable building tax credit, the energy, minerals
 23 and natural resources department may issue a certificate of
 24 eligibility to the building owner, subject to the limitations
 25 in Subsection D of this section. The certificate shall include

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underscored material = new
 [bracketed material] = delete

1 the rating system certification level awarded to the building,
2 the amount of qualified occupied square footage in the
3 building, a calculation of the maximum amount of 2021
4 sustainable building tax credit for which the building owner
5 would be eligible, the identification number, date of issuance
6 and the first taxable year that the credit shall be claimed.
7 The energy, minerals and natural resources department may issue
8 rules governing the procedure for administering the provisions
9 of this subsection. If the certification level for the
10 sustainable residential building is awarded on or after January
11 1, 2021, the energy, minerals and natural resources department
12 may issue a certificate of eligibility to a building owner who
13 is:

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

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

20 D. Except as provided in Subsection E of this
21 section, the energy, minerals and natural resources department
22 may issue a certificate of eligibility only if the total amount
23 of 2021 sustainable building tax credits represented by
24 certificates of eligibility issued by the energy, minerals and
25 natural resources department pursuant to this section and

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1 pursuant to the Income Tax Act shall not exceed in any calendar
2 year an aggregate amount of:

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

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

9 (3) two hundred fifty thousand dollars
10 (\$250,000) with respect to the construction of new sustainable
11 residential buildings that are manufactured housing;

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

14 (5) two million nine hundred thousand dollars
15 (\$2,900,000) with respect to the installation of energy-
16 conserving products in existing commercial buildings pursuant
17 to Paragraph (3) of Subsection B of this section and existing
18 residential buildings pursuant to Paragraph (5) of Subsection B
19 of this section.

20 E. For any taxable year that the energy, minerals
21 and natural resources department determines that applications
22 for sustainable building tax credits for any type of
23 sustainable building pursuant to Subsection D of this section
24 are less than the aggregate limit for that type of sustainable
25 building for that taxable year, the energy, minerals and

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1 natural resources department shall allow the difference between
2 the aggregate limit and the applications to be added to the
3 aggregate limit of another type of sustainable building for
4 which applications exceeded the aggregate limit for that
5 taxable year. Any excess not used in a taxable year shall not
6 be carried forward to subsequent taxable years.

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

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

24 H. If the approved amount of a 2021 sustainable
25 building tax credit for a taxpayer in a taxable year

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1 represented by a document issued pursuant to Subsection C of
2 this section is:

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

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

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

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

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1 partnership or association. The total credit claimed in the
2 aggregate by all members of the partnership or association with
3 respect to the sustainable building shall not exceed the amount
4 of the credit that could have been claimed by a sole owner of
5 the property.

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

16 L. For the purposes of this section:

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

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

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1 licensing department;

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

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

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

25 (6) "Energy Star" means products and devices

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1 certified under the energy star program administered by United
2 States environmental protection agency and United States
3 department of energy;

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

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

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

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

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

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

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

1 homes;

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

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

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

12 (17) "manufactured housing" means a
13 multisectioned home that is:

14 (a) a manufactured home or modular home;

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

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

24 (d) installed consistent with the
25 Manufactured Housing Act and rules adopted pursuant to that act

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1 relating to permanent foundations;

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

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

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

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

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

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

16 (21) "sustainable commercial building" means:

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

20 (b) a multifamily dwelling unit that is
21 certified as LEED-H platinum or gold or build green emerald or
22 gold and has achieved an energy rating system index of forty or
23 lower; or

24 (c) a building that: 1) is certified at
25 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;

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1 2) achieves any prerequisite for and at least one point related
2 to commissioning under the LEED energy and atmosphere category,
3 if included in the applicable rating system; and 3) has reduced
4 energy consumption beginning January 1, 2012 by forty percent
5 based on the national average for that building type as
6 published by the United States department of energy as
7 substantiated by the United States environmental protection
8 agency target finder energy performance results form, dated no
9 sooner than the schematic design phase of development;

10 (22) "sustainable residential building" means:

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

24 (b) manufactured housing that is Energy
25 Star-qualified;

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

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

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

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

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

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

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