

1 HOUSE BILL 15  
2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY  
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10 AN ACT

11 RELATING TO TAXATION; CREATING THE 2021 SUSTAINABLE BUILDING  
12 TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE  
13 INCOME AND FRANCHISE TAX ACT; ACCELERATING THE TERMINATION OF  
14 THE NEW SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME  
15 TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT AND  
16 CHANGING THE NAME OF THE CREDITS TO THE "2015 SUSTAINABLE  
17 BUILDING TAX CREDIT".

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "7-2-18.29. [~~NEW~~] 2015 SUSTAINABLE BUILDING TAX CREDIT.--

23 A. The tax credit provided by this section may be  
24 referred to as the "[~~new~~] 2015 sustainable building tax  
25 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 commences prior to the effective date of this 2021 act and is  
8 completed prior to January 1, 2022. The tax credit provided in  
9 this section may not be claimed with respect to the same  
10 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

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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 January 1,  
10 2022, the energy, minerals and natural resources department may  
11 issue 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

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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:

15	Rating Level	Qualified	Tax Credit
16		Occupied	per Square
17		Square Footage	Foot
18	LEED-NC Platinum	First 10,000	\$5.25
19		Next 40,000	\$2.25
20		Over 50,000	
21		up to 200,000	\$1.00
22	LEED-EB or CS Platinum	First 10,000	\$3.40
23		Next 40,000	\$1.30
24		Over 50,000	
25		up to 200,000	\$0.35

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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; 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 Net Carbon, Energy,		
15	Water and Waste Certified	First 50,000	\$1.00
16		Over 50,000	
17		up to 200,000	\$0.50;

18 (2) for the renovation of a commercial  
19 building with twenty thousand square feet or more of space in  
20 which temperature is controlled and that is broadband ready and  
21 electric vehicle ready, the amount of credit shall be  
22 calculated by multiplying two dollars twenty-five cents (\$2.25)  
23 by the amount of qualified occupied square footage in the  
24 building, up to a maximum of one hundred fifty thousand dollars  
25 (\$150,000) per renovation; provided that the renovation reduces

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

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

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1	Resources Department	100% of product	50% of product
2		cost up to	cost up to
3		\$2,000	\$1,000
4	Energy Star Heat Pump Water		
5	Heater	\$700	\$350
6	Electric Vehicle Ready	100% of product	50% of product
7		cost up to	cost up to
8		\$3,000	\$1,500;

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

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

16	Rating Level	Qualified	Tax Credit
17		Occupied	per Square
18		Square Footage	Foot
19	LEED-H Platinum	Up to 2,000	\$5.50
20	Emerald Level	Up to 2,000	\$5.50
21	Manufactured Housing	Up to 2,000	\$2.00; and

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

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

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

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

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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	\$1,000	\$500.

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

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

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

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

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

25 (1) one million dollars (\$1,000,000) with

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1 respect to the construction of new sustainable commercial  
2 buildings;

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

6 (3) one hundred fifty thousand dollars  
7 (\$150,000) with respect to the construction of new sustainable  
8 residential buildings that are manufactured housing;

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

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

16 E. For any taxable year that the energy, minerals  
17 and natural resources department determines that applications  
18 for sustainable building tax credits for any type of  
19 sustainable building pursuant to Subsection D of this section  
20 are less than the aggregate limit for that type of sustainable  
21 building for that taxable year, the energy, minerals and  
22 natural resources department shall allow the difference between  
23 the aggregate limit and the applications to be added to the  
24 aggregate limit of another type of sustainable building for  
25 which applications exceeded the aggregate limit for that

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1 taxable year. Any excess not used in a taxable year shall not  
2 be carried forward to subsequent taxable years.

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

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

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

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

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

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

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

19 J. A taxpayer who otherwise qualifies and claims a  
20 2021 sustainable building tax credit with respect to a  
21 sustainable building owned by a partnership or other business  
22 association of which the taxpayer is a member may claim a  
23 credit only in proportion to that taxpayer's interest in the  
24 partnership or association. The total credit claimed in the  
25 aggregate by all members of the partnership or association 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 K. Married individuals who file separate returns  
5 for a taxable year in which they could have filed a joint  
6 return may each claim only one-half of the 2021 sustainable  
7 building tax credit that would have been allowed on a joint  
8 return.

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

19 M. For the purposes of this section:

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

23 (2) "electric vehicle ready" means a property  
24 that for commercial buildings provides at least ten percent of  
25 parking spaces and for residential buildings at least one

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

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

11 (4) "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 (5) "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 (6) "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

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1 and spas, cooking appliances and clothes drying appliances and  
2 has no natural gas or propane plumbing installed in the  
3 building;

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

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

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

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

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

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

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1 (13) "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 (14) "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 (15) "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 (16) "person" does not include state, local  
6 government, public school district or tribal agencies;

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

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

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

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

21 (c) has reduced energy consumption  
22 beginning January 1, 2012 by forty percent based on the  
23 national average for that building type as published by the  
24 United States department of energy as substantiated by the  
25 United States environmental protection agency target finder

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

3 (19) "sustainable residential building" means:

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

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

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

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

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1 agency's criteria for efficiency and performance; and

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

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

13 "7-2A-28. ~~[NEW]~~ 2015 SUSTAINABLE BUILDING TAX CREDIT.--

14 A. The tax credit provided by this section may be  
15 referred to as the "~~[new]~~ 2015 sustainable building tax  
16 credit". The ~~[new]~~ 2015 sustainable building tax credit shall  
17 be available for the construction in New Mexico of a  
18 sustainable building, the renovation of an existing building in  
19 New Mexico into a sustainable building or the permanent  
20 installation of manufactured housing, regardless of where the  
21 housing is manufactured, that is a sustainable building;  
22 provided that the construction, renovation or installation  
23 commences prior to the effective date of this 2021 act and is  
24 completed prior to January 1, 2022. The tax credit provided in  
25 this section may not be claimed with respect to the same

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

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

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

14 D. For taxable years ending on or before December  
15 31, 2026, the [new] 2015 sustainable building tax credit may be  
16 claimed with respect to a sustainable commercial building. The  
17 credit shall be calculated based on the certification level the  
18 building has achieved in the LEED green building rating system  
19 and the amount of qualified occupied square footage in the  
20 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

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underscored material = new  
~~[bracketed material] = delete~~

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

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

11 E. For taxable years ending on or before December  
12 31, 2026, the ~~new~~ 2015 sustainable building tax credit may be  
13 claimed with respect to a sustainable residential building.  
14 The credit shall be calculated based on the amount of qualified  
15 occupied square footage, as indicated on the following chart:

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

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1 F. A person that is a building owner may apply for  
2 a certificate of eligibility for the ~~[new]~~ 2015 sustainable  
3 building tax credit from the energy, minerals and natural  
4 resources department after the construction, installation or  
5 renovation of the sustainable building is complete.  
6 Applications shall be considered in the order received. If the  
7 energy, minerals and natural resources department determines  
8 that the building owner meets the requirements of this  
9 subsection and that the building with respect to which the tax  
10 credit application is made meets the requirements of this  
11 section as a sustainable residential building or a sustainable  
12 commercial building, the energy, minerals and natural resources  
13 department may issue a certificate of eligibility to the  
14 building owner, subject to the limitations in Subsection G of  
15 this section. The certificate shall include the rating system  
16 certification level awarded to the building, the amount of  
17 qualified occupied square footage in the building and a  
18 calculation of the maximum amount of ~~[new]~~ 2015 sustainable  
19 building tax credit for which the building owner would be  
20 eligible. The energy, minerals and natural resources  
21 department may issue rules governing the procedure for  
22 administering the provisions of this subsection. If the  
23 certification level for the sustainable residential building is  
24 awarded on or after January 1, 2017 but prior to January 1,  
25 2022, the energy, minerals and natural resources department may

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1 issue a certificate of eligibility to a building owner who is:

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

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

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

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

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

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

25 H. For any taxable year that the energy, minerals

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

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

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

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

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

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

22 (1) less than one hundred thousand dollars  
23 (\$100,000), a maximum of twenty-five thousand dollars (\$25,000)  
24 shall be applied against the taxpayer's corporate income tax  
25 liability for the taxable year for which the credit is approved

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1 and the next three subsequent taxable years as needed depending  
2 on the amount of credit; or

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

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

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

25 O. The department shall compile an annual report on

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

13 P. For the purposes of this section:

- 14 (1) "build green New Mexico rating system"  
15 means the certification standards adopted by build green New  
16 Mexico in November 2014, which include water conservation  
17 standards;
- 18 (2) "LEED-CI" means the LEED rating system for  
19 commercial interiors;
- 20 (3) "LEED-CS" means the LEED rating system for  
21 the core and shell of buildings;
- 22 (4) "LEED-EB" means the LEED rating system for  
23 existing buildings;
- 24 (5) "LEED gold" means the rating in compliance  
25 with, or exceeding, the second-highest rating awarded by the

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1 LEED certification process;

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

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

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

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

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

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

18 (a) a manufactured home or modular home;

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

22 (c) constructed in a factory to the  
23 standards of the United States department of housing and urban  
24 development, the National Manufactured Housing Construction and  
25 Safety Standards Act of 1974 and the Housing and Urban

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underscoring material = new  
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1 Development Zone Code 2 or New Mexico construction codes up to  
2 the date of the unit's construction; and

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

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

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

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

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

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

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

20 (15) "sustainable commercial building" means a  
21 multifamily dwelling unit, as registered and certified under  
22 the LEED-H or build green New Mexico rating system, that is  
23 certified by the United States green building council as LEED-H  
24 silver or higher or by build green New Mexico as silver or  
25 higher and has achieved a home energy rating system index of

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1 sixty or lower as developed by the residential energy services  
2 network or a building that has been registered and certified  
3 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system  
4 and that:

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

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

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

17 (16) "sustainable residential building" means:

18 (a) a building used as a single-family  
19 residence as registered and certified under the build green New  
20 Mexico or LEED-H rating systems that: 1) is certified by the  
21 United States green building council as LEED-H silver or higher  
22 or by build green New Mexico as silver or higher; 2) has  
23 achieved a home energy rating system index of sixty or lower as  
24 developed by the residential energy services network; 3) has  
25 indoor plumbing fixtures and water-using appliances that, on

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underscored material = new  
~~[bracketed material] = delete~~

1 average, have flow rates equal to or lower than the flow rates  
2 required for certification by WaterSense; 4) if landscape area  
3 is available at the front of the property, has at least one  
4 water line outside the building below the frost line that may  
5 be connected to a drip irrigation system; and 5) if landscape  
6 area is available at the rear of the property, has at least one  
7 water line outside the building below the frost line that may  
8 be connected to a drip irrigation system; or

9 (b) manufactured housing that is  
10 ENERGY STAR-qualified by the United States environmental  
11 protection agency;

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

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

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

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

22 A. The tax credit provided by this section may be  
23 referred to as the "2021 sustainable building tax credit". For  
24 taxable years prior to January 1, 2027, a taxpayer that is a  
25 building owner and files a corporate income tax return is

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

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

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

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

24 Rating Level	Qualified	Tax Credit
25	Occupied	per Square

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1		Square Footage	Foot
2	LEED-NC Platinum	First 10,000	\$5.25
3		Next 40,000	\$2.25
4		Over 50,000	
5		up to 200,000	\$1.00
6	LEED-EB or CS Platinum	First 10,000	\$3.40
7		Next 40,000	\$1.30
8		Over 50,000	
9		up to 200,000	\$0.35
10	LEED-CI Platinum	First 10,000	\$1.50
11		Next 40,000	\$0.40
12		Over 50,000	
13		up to 200,000	\$0.30; and

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

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

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1 up to 200,000 \$0.50;  
2 (2) for the renovation of a commercial  
3 building with twenty thousand square feet or more of space in  
4 which temperature is controlled and that is broadband ready and  
5 electric vehicle ready, the amount of credit shall be  
6 calculated by multiplying two dollars twenty-five cents (\$2.25)  
7 by the amount of qualified occupied square footage in the  
8 building, up to a maximum of one hundred fifty thousand dollars  
9 (\$150,000) per renovation; provided that the renovation reduces  
10 total energy and power costs by fifty percent when compared to  
11 the most current energy standard for buildings except low-rise  
12 residential buildings, as developed by the American society of  
13 heating, refrigerating and air-conditioning engineers;

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

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

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

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready, 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
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1	Occupied	per Square	
2	Square Footage	Foot	
3	LEED-H Platinum	Up to 2,000	\$5.50
4	Emerald Level	Up to 2,000	\$5.50
5	Manufactured Housing	Up to 2,000	\$2.00; and

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

9	Additional Criteria	Qualified	Tax Credit
10		Occupied	per Square
11		Square Footage	Foot
12	Fully Electric Building	Up to 2,000	\$1.00
13	Zero Net Carbon, Energy,		
14	Water and Waste Certified	Up to 2,000	\$1.00; and

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

21	Product	Amount of Credit	
22		Affordable	Non-Affordable
23		Housing and	Housing and
24		Low-Income	Non-Low Income
25	Energy Star Air		

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

17 C. A person that is a building owner may apply for  
18 a certificate of eligibility for the 2021 sustainable building  
19 tax credit from the energy, minerals and natural resources  
20 department after the construction, installation or renovation  
21 of the sustainable building or installation of energy-  
22 conserving products in an existing building is complete.  
23 Applications shall be considered in the order received. If the  
24 energy, minerals and natural resources department determines  
25 that the building owner meets the requirements of this

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

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

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

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

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

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

15                   (3) one hundred fifty thousand dollars  
16 (\$150,000) with respect to the construction of new sustainable  
17 residential buildings that are manufactured housing;

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

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

25           E. For any taxable year that the energy, minerals

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

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

23 G. To claim the 2021 sustainable building tax  
24 credit, the building owner shall provide to the taxation and  
25 revenue department a certificate of eligibility issued by the

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1 energy, minerals and natural resources department pursuant to  
2 the requirements of Subsection C of this section and any other  
3 information the taxation and revenue department may require.

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

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

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

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

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1 J. A taxpayer that otherwise qualifies and claims a  
2 2021 sustainable building tax credit with respect to a  
3 sustainable building owned by a partnership or other business  
4 association of which the taxpayer is a member may claim a  
5 credit only in proportion to that taxpayer's interest in the  
6 partnership or association. The total credit claimed in the  
7 aggregate by all members of the partnership or association with  
8 respect to the sustainable building shall not exceed the amount  
9 of the credit that could have been claimed by a sole owner of  
10 the property.

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

21 L. For the purposes of this section:

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

25 (2) "electric vehicle ready" means a property

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

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

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

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

25 (6) "fully electric building" means a building

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1 that uses a permanent supply of electricity as the source of  
2 energy for all space heating, water heating, including pools  
3 and spas, cooking appliances and clothes drying appliances and  
4 has no natural gas or propane plumbing installed in the  
5 building;

6 (7) "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 (8) "LEED-CI platinum" means the LEED rating  
11 system for commercial interiors in compliance with, or  
12 exceeding, the highest rating awarded by the LEED certification  
13 process;

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

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

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

24 (12) "LEED-NC platinum" means the LEED rating  
25 system for new buildings and major renovations in compliance

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

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

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

10 (a) a manufactured home or modular home;

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

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

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

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

25 (a) the United States green building

1 council for those buildings obtaining LEED certification;

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

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

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

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

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

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

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

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

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

5 (19) "sustainable residential building" means:

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

20 (b) manufactured housing that is Energy  
21 Star-qualified;

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

25 (21) "WaterSense" means a program created by

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1 the federal environmental protection agency that certifies  
2 water-using products that meet the environmental protection  
3 agency's criteria for efficiency and performance; and

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

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