

HOUSE BILL 125

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Kristina Ortez

AN ACT

RELATING TO TAXATION; AMENDING CERTAIN DATES TO EXTEND
ELIGIBILITY FOR THE 2021 SUSTAINABLE BUILDING TAX CREDITS
PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND
FRANCHISE TAX ACT.

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

SECTION 1. Section 7-2-18.32 NMSA 1978 (being Laws 2021,
Chapter 84, Section 2) is amended to read:

"7-2-18.32. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be
referred to as the "2021 sustainable building tax credit". For
taxable years prior to January 1, 2030, a taxpayer who is a
building owner and files an income tax return is eligible to be
granted a 2021 sustainable building tax credit by the
department if the requirements of this section are met. The

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

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

16 (1) for the construction of a new sustainable
17 commercial building that is broadband ready and electric
18 vehicle ready and is completed on or after ~~[April 1, 2023]~~
19 January 1, 2022, 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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	Square Footage	Foot
1		
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
14	LEED-NC Gold	First 10,000 \$3.00
15		Next 40,000 \$1.00
16		Over 50,000
17		up to 200,000 \$0.25
18	LEED-EB or -CS Gold	First 10,000 \$2.00
19		Next 40,000 \$1.00
20		Over 50,000
21		up to 200,000 \$0.25
22	LEED-CI Gold	First 10,000 \$0.90
23		Next 40,000 \$0.40
24		Over 50,000
25		up to 200,000 \$0.10; and

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

4 Additional Criteria	5 Qualified Occupied Square Footage	6 Tax Credit per Square Foot
7 Fully Electric Building	8 First 50,000	9 \$1.00
	10 Over 50,000	
	11 up to 200,000	12 \$0.50
13 Zero Carbon, Energy, Waste or Water Certified	14 First 50,000	15 \$0.25
	16 Over 50,000	
	17 up to 200,000	18 \$0.10;

14 (2) for the renovation of a commercial
15 building that was built at least ten years prior to the date of
16 the renovation, has twenty thousand square feet or more of
17 space in which temperature is controlled and is broadband ready
18 and electric vehicle ready, the amount of credit shall be
19 calculated by multiplying two dollars twenty-five cents (\$2.25)
20 by the amount of qualified occupied square footage in the
21 building, up to a maximum of one hundred fifty thousand dollars
22 (\$150,000) per renovation; provided that the renovation reduces
23 total energy and power costs by fifty percent when compared to
24 the most current energy standard for buildings except low-rise
25 residential buildings, as developed by the American society of

1 heating, refrigerating and air-conditioning engineers;

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

9 Product	10 Amount of Credit	
	11 Affordable 12 Housing	13 Non-Affordable 14 Housing
15 Energy Star Air 16 Source Heat Pump	17 \$2,000	18 \$1,000
19 Energy Star Ground 20 Source Heat Pump	21 \$2,000	22 \$1,000
23 Energy Star 24 Windows and Doors	25 100% of product cost up to \$1,000	50% of product cost up to \$500
26 Insulation Improvements That 27 Meet Rules of the 28 Energy, Minerals and Natural 29 Resources Department	30 100% of product cost up to \$2,000	31 50% of product cost up to \$1,000

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

6 (4) for the construction of a new sustainable
7 residential building that is broadband ready and electric
8 vehicle ready and is completed on or after ~~April 1, 2023~~
9 January 1, 2022, the amount of credit shall be calculated:

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

14 Rating Level	15 Qualified	16 Tax Credit
	17 Occupied	18 per Square
	19 Square Footage	20 Foot
21 LEED-H Platinum	Up to 2,000	\$5.50
22 LEED-H Gold	Up to 2,000	\$3.80
23 Build Green Emerald	Up to 2,000	\$5.50
24 Build Green Gold	Up to 2,000	\$3.80
25 Manufactured Housing	Up to 2,000	\$2.00; and

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

Additional Criteria	Qualified	Tax Credit
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1 Occupied per Square
2 Square Footage Foot
3 Fully Electric Building Up to 2,000 \$1.00
4 Zero Carbon, Energy,
5 Waste or Water Certified Up to 2,000 \$0.25; 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		
17 Source Heat Pump	\$2,000	\$1,000
18 Energy Star Ground		
19 Source Heat Pump	\$2,000	\$1,000
20 Energy Star		
21 Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
22		
23		
24 Insulation Improvements That		
25 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]~~ 2022, the energy, minerals and natural resources
9 department may issue a certificate of eligibility to a building
10 owner who 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) two hundred fifty thousand dollars
7 (\$250,000) 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) two million nine hundred thousand dollars
12 (\$2,900,000) with respect to the installation of energy-
13 conserving products in existing commercial buildings pursuant
14 to Paragraph (3) of Subsection B of this section and existing
15 residential buildings pursuant to Paragraph (5) of Subsection B
16 of this section.

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

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1 which applications exceeded the aggregate limit for that
2 taxable year. Any excess not used in a taxable year shall not
3 be carried forward to subsequent taxable years.

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

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

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

25 (1) less than one hundred thousand dollars

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

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

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

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

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

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

10 L. If the requirements of this section have been
11 complied with, the department shall issue to the building owner
12 a document granting a 2021 sustainable building tax credit.
13 The document shall be numbered for identification and declare
14 its date of issuance and the amount of the tax credit allowed
15 pursuant to this section. The document may be submitted by the
16 building owner with that taxpayer's income tax return, if
17 applicable, or may be sold, exchanged or otherwise transferred
18 to another taxpayer. The parties to such a transaction shall
19 notify the department of the sale, exchange or transfer within
20 ten days of the sale, exchange or transfer.

21 M. The department and the energy, minerals and
22 natural resources department shall compile an annual report on
23 the 2021 sustainable building tax credit created pursuant to
24 this section that shall include the number of taxpayers
25 approved to receive the tax credit, the aggregate amount of tax

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1 credits approved and any other information necessary to
2 evaluate the effectiveness of the tax credit. The department
3 shall present the report to the revenue stabilization and tax
4 policy committee and the legislative finance committee with an
5 analysis of the effectiveness and cost of the tax credit.

6 N. For the purposes of this section:

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

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

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

24 (4) "electric vehicle ready" means a property
25 that for commercial buildings provides at least ten percent of

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

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

16 (6) "Energy Star" means products and devices
17 certified under the energy star program administered by the
18 United States environmental protection agency and United States
19 department of energy that meet the specified performance
20 requirements at the installed locations;

21 (7) "fully electric building" means a building
22 that uses a permanent supply of electricity as the source of
23 energy for all space heating, water heating, including pools
24 and spas, cooking appliances and clothes drying appliances and,
25 in the case of a new building, has no natural gas or propane

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1 plumbing installed in the building or, in the case of an
2 existing building, has no connected natural gas or propane
3 plumbing;

4 (8) "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 (9) "LEED-CI" means the LEED rating system for
9 commercial interiors;

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

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

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

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

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

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

24 (16) "low-income taxpayer" means a taxpayer
25 with an annual household adjusted gross income equal to or less

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1 than two hundred percent of the federal poverty level
2 guidelines published by the United States department of health
3 and human services;

4 (17) "manufactured housing" means a
5 multisectioned home that is:

6 (a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

8 (21) "sustainable commercial building" means:

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

12 (b) a multifamily dwelling unit that is
13 certified as LEED-H platinum or gold or build green emerald or
14 gold and uses at least thirty percent less energy than is
15 required by the prescriptive path of the most current
16 applicable energy conservation code promulgated by the
17 construction industries division of the regulation and
18 licensing department for build green gold or LEED-H, or uses at
19 least forty percent less energy than is required by the
20 prescriptive path of the most current residential energy
21 conservation code promulgated by the construction industries
22 division of the regulation and licensing department for build
23 green emerald or LEED platinum; 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) uses at least thirty percent
14 less energy than is required by the prescriptive path of the
15 most current residential energy conservation code promulgated
16 by the construction industries division of the regulation and
17 licensing department for build green gold or LEED-H, or uses at
18 least forty percent less energy than is required by the
19 prescriptive path of the most current residential energy
20 conservation code promulgated by the construction industries
21 division of the regulation and licensing department for build
22 green emerald or LEED platinum; 3) has indoor plumbing fixtures
23 and water-using appliances that, on average, have flow rates
24 equal to or lower than the flow rates required for
25 certification by WaterSense; 4) if landscape area is available

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1 at the front of the property, has at least one water line
2 outside the building below the frost line that may be connected
3 to a drip irrigation system; and 5) if landscape area is
4 available at the rear of the property, has at least one water
5 line outside the building below the frost line that may be
6 connected to a drip irrigation system; or

7 (b) manufactured housing that is Energy
8 Star-qualified;

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

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

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

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

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

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

4 SECTION 2. Section 7-2A-28.1 NMSA 1978 (being Laws 2021,
5 Chapter 84, Section 4) is amended to read:

6 "7-2A-28.1. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

7 A. The tax credit provided by this section may be
8 referred to as the "2021 sustainable building tax credit". For
9 taxable years prior to January 1, 2030, a taxpayer that is a
10 building owner and files a corporate income tax return is
11 eligible to be granted a 2021 sustainable building tax credit
12 by the department if the requirements of this section are met.
13 The 2021 sustainable building tax credit shall be available for
14 the construction in New Mexico of a sustainable building, the
15 renovation of an existing building in New Mexico, the permanent
16 installation of manufactured housing, regardless of where the
17 housing is manufactured, that is a sustainable building or the
18 installation of energy-conserving products to existing
19 buildings in New Mexico, as provided in this section. The tax
20 credit provided in this section may not be claimed with respect
21 to the same sustainable building for which the 2021 sustainable
22 building tax credit provided in the Income Tax Act or the 2015
23 sustainable building tax credit pursuant to the Income Tax Act
24 or the Corporate Income and Franchise Tax Act has been claimed.

25 B. The amount of a 2021 sustainable building tax

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1 credit shall be determined as follows:

2 (1) for the construction of a new sustainable
3 commercial building that is broadband ready and electric
4 vehicle ready and is completed on or after ~~[April 1, 2023]~~
5 January 1, 2022, the amount of credit shall be calculated:

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

10 Rating Level	11 Qualified 12 Occupied 13 Square Footage	14 Tax Credit 15 per Square 16 Foot
17 LEED-NC Platinum	18 First 10,000	19 \$5.25
	20 Next 40,000	21 \$2.25
	22 Over 50,000	
	23 up to 200,000	24 \$1.00
25 LEED-EB or CS Platinum	26 First 10,000	27 \$3.40
	28 Next 40,000	29 \$1.30
	30 Over 50,000	
	31 up to 200,000	32 \$0.35
LEED-CI Platinum	33 First 10,000	34 \$1.50
	35 Next 40,000	36 \$0.40
	37 Over 50,000	
	38 up to 200,000	39 \$0.30
LEED-NC Gold	40 First 10,000	41 \$3.00

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

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

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

(2) for the renovation of a commercial

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

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

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

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

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after ~~April 1, 2023~~ January 1, 2022, 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	LEED-H Gold	Up to 2,000	\$3.80
5	Build Green Emerald	Up to 2,000	\$5.50
6	Build Green Gold	Up to 2,000	\$3.80
7	Manufactured Housing	Up to 2,000	\$2.00; and

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

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

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

23	Product	Amount of Credit	
24		Affordable	Non-Affordable
25		Housing and	Housing and

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

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

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1 energy, minerals and natural resources department determines
2 that the building owner meets the requirements of this
3 subsection and that the building with respect to which the
4 application is made meets the requirements of this section for
5 a 2021 sustainable building tax credit, the energy, minerals
6 and natural resources department may issue a certificate of
7 eligibility to the building owner, subject to the limitations
8 in Subsection D of this section. The certificate shall include
9 the rating system certification level awarded to the building,
10 the amount of qualified occupied square footage in the
11 building, a calculation of the maximum amount of 2021
12 sustainable building tax credit for which the building owner
13 would be eligible, the identification number, date of issuance
14 and the first taxable year that the credit shall be claimed.
15 The energy, minerals and natural resources department may issue
16 rules governing the procedure for administering the provisions
17 of this subsection. If the certification level for the
18 sustainable residential building is awarded on or after January
19 1, ~~[2021]~~ 2022, the energy, minerals and natural resources
20 department may issue a certificate of eligibility to a building
21 owner who is:

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

25 (2) the subsequent purchaser of a sustainable

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1 residential building with respect to which no tax credit has
2 been previously claimed.

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

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

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

17 (3) two hundred fifty thousand dollars
18 (\$250,000) with respect to the construction of new sustainable
19 residential buildings that are manufactured housing;

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

22 (5) two million nine hundred thousand dollars
23 (\$2,900,000) with respect to the installation of energy-
24 conserving products in existing commercial buildings pursuant
25 to Paragraph (3) of Subsection B of this section and existing

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1 residential buildings pursuant to Paragraph (5) of Subsection B
2 of this section.

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

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

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

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

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

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

23 I. If the sum of all 2021 sustainable building tax
24 credits that can be applied to a taxable year for a taxpayer,
25 calculated according to Paragraph (1) or (2) of Subsection H of

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1 this section, exceeds the taxpayer's corporate income tax
2 liability for that taxable year, the excess may be carried
3 forward for a period of up to seven years.

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

14 K. If the requirements of this section have been
15 complied with, the department shall issue to the building owner
16 a document granting a 2021 sustainable building tax credit.
17 The document shall be numbered for identification and declare
18 its date of issuance and the amount of the tax credit allowed
19 pursuant to this section. The document may be submitted by the
20 building owner with that taxpayer's income tax return, if
21 applicable, or may be sold, exchanged or otherwise transferred
22 to another taxpayer. The parties to such a transaction shall
23 notify the department of the sale, exchange or transfer within
24 ten days of the sale, exchange or transfer.

25 L. The department and the energy, minerals and

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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 prescriptive path
18 of the most current residential energy conservation code
19 promulgated by the construction industries division of the
20 regulation and 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 prescriptive path of the
25 most current residential energy conservation code promulgated

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1 by the construction industries division of the regulation and
2 licensing department;

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

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

20 (6) "Energy Star" means products and devices
21 certified under the energy star program administered by the
22 United States environmental protection agency and United States
23 department of energy that meet the specified performance
24 requirements at the installed locations;

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

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

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

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

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

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

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

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

25 (15) "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 (16) "low-income taxpayer" means a taxpayer with
4 an annual household adjusted gross income equal to or less than
5 two hundred percent of the federal poverty level guidelines
6 published by the United States department of health and human
7 services;

8 (17) "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 heated
12 area of at least thirty-six feet by twenty-four feet and a
13 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 (18) "qualified occupied square footage" means
24 the occupied spaces of the building as determined by:

25 (a) the United States green building council

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1 for those buildings obtaining LEED certification;

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

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

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

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

12 (21) "sustainable commercial building" means:

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

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

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1 green emerald or LEED platinum; or

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

13 (22) "sustainable residential building" means:

14 (a) a building used as a single-family
15 residence that: 1) is certified as LEED-H platinum or gold or
16 build green emerald or gold; 2) uses at least thirty percent
17 less energy than is required by the prescriptive path of the
18 most current residential energy conservation code promulgated
19 by the construction industries division of the regulation and
20 licensing department for build green gold or LEED-H, or uses at
21 least forty percent less energy than is required by the
22 prescriptive path of the most current residential energy
23 conservation code promulgated by the construction industries
24 division of the regulation and licensing department for build
25 green emerald or LEED platinum; 3) has indoor plumbing fixtures

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

10 (b) manufactured housing that is Energy
11 Star-qualified;

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

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

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

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

24 (27) "zero waste certified" means a building
25 that is certified as LEED zero waste by achieving green

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1 building certification incorporated's true zero waste
2 certification at the platinum level; and

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

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