

1 AN ACT

2 RELATING TO TAXATION; ALLOWING CERTAIN MUNICIPALITIES TO
3 RETAIN A CERTAIN PERCENTAGE OF THE HOLD HARMLESS DISTRIBUTION
4 TO OFFSET GROSS RECEIPTS DEDUCTIONS FOR FOOD AND HEALTH CARE
5 PRACTITIONER SERVICES; CLARIFYING THAT CERTAIN OTHER
6 MUNICIPALITIES AND COUNTIES ARE EXEMPT FROM THE PHASE-OUT OF
7 THAT DISTRIBUTION IF THEY DID NOT HAVE A HOLD HARMLESS GROSS
8 RECEIPTS TAX IN EFFECT ON JUNE 30, 2019; CREATING A 2022
9 INCOME TAX CREDIT FOR NURSES EMPLOYED BY HOSPITALS IN NEW
10 MEXICO; CREATING A 2021 INCOME TAX REBATE; CREATING A
11 TEMPORARY CHILD INCOME TAX CREDIT; PROVIDING A TEMPORARY
12 INCOME TAX EXEMPTION FOR MILITARY RETIREMENT PAY; EXEMPTING
13 SOCIAL SECURITY INCOME FROM INCOME TAX FOR CERTAIN
14 INDIVIDUALS; EXTENDING THE NEW SOLAR MARKET DEVELOPMENT
15 INCOME TAX CREDIT, INCREASING THE ANNUAL AGGREGATE CAP FOR
16 THE CREDIT AND MAKING THE CREDIT REFUNDABLE AND TRANSFERABLE;
17 AMENDING CERTAIN DATES TO EXTEND ELIGIBILITY FOR THE 2021
18 SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME TAX
19 ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT, PROVIDING
20 FOR AN EARLIER SUNSET DATE FOR THE CREDITS AND AMENDING
21 QUALIFICATIONS FOR THE CREDITS; DEFINING "DISCLOSED AGENCY"
22 IN THE GROSS RECEIPTS AND COMPENSATING TAX ACT; REDUCING THE
23 RATES OF THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX;
24 PROVIDING FOR AN INCREASE IN THE GROSS RECEIPTS TAX AND THE
25 COMPENSATING TAX IF GROSS RECEIPTS TAX REVENUES DECREASE;

1 PROVIDING GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS
2 TAX DEDUCTIONS FOR THE SALE OF SERVICES TO A MANUFACTURER;
3 PROVIDING GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS
4 TAX DEDUCTIONS FOR FEMININE HYGIENE PRODUCTS.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
8 Chapter 116, Section 1, as amended) is amended to read:

9 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
10 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
11 DEDUCTION.--

12 A. For a municipality that did not have in effect
13 on June 30, 2019 a municipal hold harmless gross receipts tax
14 through an ordinance and that has a population of less than
15 ten thousand according to the most recent federal decennial
16 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to the municipality in an amount, subject to
18 any increase or decrease made pursuant to Section 7-1-6.15
19 NMSA 1978, equal to the applicable maximum distribution for
20 the municipality.

21 B. For a municipality that did not have in effect
22 on June 30, 2019 a municipal hold harmless gross receipts tax
23 through an ordinance and has a population of at least ten
24 thousand according to the most recent federal decennial
25 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978

1 shall be made to the municipality in an amount, subject to
2 any increase or decrease made pursuant to Section 7-1-6.15
3 NMSA 1978, equal to the following percentages of the
4 applicable maximum distribution for the municipality:

5 (1) for a municipality that has a municipal
6 poverty level two percentage points or more above the state
7 poverty level, eighty percent;

8 (2) for a municipality that has a poverty
9 level of less than two percentage points above or below the
10 state poverty level, fifty percent; and

11 (3) for a municipality that has a poverty
12 level two percentage points or more below the state poverty
13 level:

14 (a) on or after July 1, 2022 and prior
15 to July 1, 2023, forty-nine percent;

16 (b) on or after July 1, 2023 and prior
17 to July 1, 2024, forty-two percent;

18 (c) on or after July 1, 2024 and prior
19 to July 1, 2025, thirty-five percent; and

20 (d) on or after July 1, 2025, thirty
21 percent.

22 C. For a municipality not described in Subsection
23 A or B of this section, a distribution pursuant to Section
24 7-1-6.1 NMSA 1978 shall be made to the municipality in an
25 amount, subject to any increase or decrease made pursuant to

1 Section 7-1-6.15 NMSA 1978, equal to the applicable maximum
2 distribution for the municipality multiplied by the following
3 percentages:

4 (1) on or after July 1, 2022 and prior to
5 July 1, 2023, forty-nine percent;

6 (2) on or after July 1, 2023 and prior to
7 July 1, 2024, forty-two percent;

8 (3) on or after July 1, 2024 and prior to
9 July 1, 2025, thirty-five percent;

10 (4) on or after July 1, 2025 and prior to
11 July 1, 2026, twenty-eight percent;

12 (5) on or after July 1, 2026 and prior to
13 July 1, 2027, twenty-one percent;

14 (6) on or after July 1, 2027 and prior to
15 July 1, 2028, fourteen percent;

16 (7) on or after July 1, 2028 and prior to
17 July 1, 2029, seven percent; and

18 (8) on and after July 1, 2029, zero percent.

19 D. A distribution pursuant to this section is in
20 lieu of revenue that would have been received by the
21 municipality but for the deductions provided by Sections
22 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be
23 considered gross receipts tax revenue and shall be used by
24 the municipality in the same manner as gross receipts tax
25 revenue, including payment of gross receipts tax revenue

1 bonds.

2 E. If the changes made by this 2022 act to the
3 distributions made pursuant to this section impair the
4 ability of a municipality to meet its principal or interest
5 payment obligations for revenue bonds that are outstanding
6 prior to July 1, 2022 and that are secured by the pledge of
7 all or part of the municipality's revenue from the
8 distribution made pursuant to this section, then the amount
9 distributed pursuant to this section to that municipality
10 shall be increased by an amount sufficient to meet the
11 required payment; provided that the total amount distributed
12 to that municipality pursuant to this section does not exceed
13 the amount that would have been due that municipality
14 pursuant to this section as it was in effect on June 30,
15 2022.

16 F. For the purposes of this section:

17 (1) "business locations attributable to the
18 municipality" means business locations:

19 (a) within the municipality;

20 (b) on land owned by the state,
21 commonly known as the "state fairgrounds", within the
22 exterior boundaries of the municipality;

23 (c) outside the boundaries of the
24 municipality on land owned by the municipality; and

25 (d) on an Indian reservation or pueblo

1 grant in an area that is contiguous to the municipality and
2 in which the municipality performs services pursuant to a
3 contract between the municipality and the Indian tribe or
4 Indian pueblo if: 1) the contract describes an area in which
5 the municipality is required to perform services and requires
6 the municipality to perform services that are substantially
7 the same as the services the municipality performs for
8 itself; and 2) the governing body of the municipality has
9 submitted a copy of the contract to the secretary;

10 (2) "maximum distribution" means:

11 (a) for a municipality that did not
12 have in effect on June 30, 2019 a municipal hold harmless
13 gross receipts tax, the total deductions claimed pursuant to
14 Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by
15 taxpayers from business locations attributable to the
16 municipality multiplied by the sum of the combined rate of
17 all municipal local option gross receipts taxes in effect in
18 the municipality for the month plus one and two hundred
19 twenty-five thousandths percent; and

20 (b) for a municipality not described in
21 Subparagraph (a) of this paragraph, the total deductions
22 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
23 the month by taxpayers from business locations attributable
24 to the municipality multiplied by the sum of the combined
25 rate of all municipal local option gross receipts taxes in

1 effect in the municipality on January 1, 2007 plus one and
2 two hundred twenty-five thousandths percent; and

3 (3) "poverty level" means the percentage of
4 persons in poverty, according to the most recent five-year
5 American community survey, as published by the United States
6 census bureau. For the purposes of determining the poverty
7 level of a municipality, "poverty level" means the percentage
8 of persons in poverty in a municipality, according to the
9 most recent five-year American community survey, as published
10 by the United States census bureau, that includes adequate
11 data to make a determination as to the poverty level of the
12 municipality.

13 G. A distribution pursuant to this section may be
14 adjusted for a distribution made to a tax increment
15 development district with respect to a portion of a gross
16 receipts tax increment dedicated by a municipality pursuant
17 to the Tax Increment for Development Act."

18 SECTION 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
19 Chapter 116, Section 2, as amended) is amended to read:

20 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
21 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

22 A. For a county that did not have in effect on
23 June 30, 2019 a county hold harmless gross receipts tax
24 through an ordinance and that has a population of less than
25 forty-eight thousand according to the most recent federal

1 decennial census, a distribution pursuant to Section 7-1-6.1
2 NMSA 1978 shall be made to the county in an amount, subject
3 to any increase or decrease made pursuant to Section 7-1-6.15
4 NMSA 1978, equal to the applicable maximum distribution for
5 the county.

6 B. For a county not described in Subsection A of
7 this section, a distribution pursuant to Section 7-1-6.1 NMSA
8 1978 shall be made to the county in an amount, subject to any
9 increase or decrease made pursuant to Section 7-1-6.15 NMSA
10 1978, equal to the applicable maximum distribution multiplied
11 by the following percentages:

12 (1) on or after July 1, 2021 and prior to
13 July 1, 2022, fifty-six percent;

14 (2) on or after July 1, 2022 and prior to
15 July 1, 2023, forty-nine percent;

16 (3) on or after July 1, 2023 and prior to
17 July 1, 2024, forty-two percent;

18 (4) on or after July 1, 2024 and prior to
19 July 1, 2025, thirty-five percent;

20 (5) on or after July 1, 2025 and prior to
21 July 1, 2026, twenty-eight percent;

22 (6) on or after July 1, 2026 and prior to
23 July 1, 2027, twenty-one percent;

24 (7) on or after July 1, 2027 and prior to
25 July 1, 2028, fourteen percent;

1 (8) on or after July 1, 2028 and prior to
2 July 1, 2029, seven percent; and

3 (9) on and after July 1, 2029, zero percent.

4 C. A distribution pursuant to this section is in
5 lieu of revenue that would have been received by the county
6 but for the deductions provided by Sections 7-9-92 and 7-9-93
7 NMSA 1978. The distribution shall be considered gross
8 receipts tax revenue and shall be used by the county in the
9 same manner as gross receipts tax revenue, including payment
10 of gross receipts tax revenue bonds.

11 D. If the changes made by this 2022 act to the
12 distributions made pursuant to this section impair the
13 ability of a county to meet its principal or interest payment
14 obligations for revenue bonds that are outstanding prior to
15 July 1, 2022 and that are secured by the pledge of all or
16 part of the county's revenue from the distribution made
17 pursuant to this section, then the amount distributed
18 pursuant to this section to that county shall be increased by
19 an amount sufficient to meet the required payment; provided
20 that the total amount distributed to that county pursuant to
21 this section does not exceed the amount that would have been
22 due that county pursuant to this section as it was in effect
23 on June 30, 2022.

24 E. A distribution pursuant to this section may be
25 adjusted for a distribution made to a tax increment

1 development district with respect to a portion of a gross
2 receipts tax increment dedicated by a county pursuant to the
3 Tax Increment for Development Act.

4 F. For the purposes of this section, "maximum
5 distribution" means:

6 (1) for a county that did not have in effect
7 on June 30, 2019 a county hold harmless gross receipts tax
8 and that has a population of less than forty-eight thousand
9 according to the most recent federal decennial census, the
10 sum of:

11 (a) the total deductions claimed
12 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the
13 month by taxpayers from business locations within a
14 municipality in the county multiplied by the combined rate of
15 all county local option gross receipts taxes in effect for
16 the month that are imposed throughout the county; and

17 (b) the total deductions claimed
18 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the
19 month by taxpayers from business locations in the county but
20 not within a municipality multiplied by the combined rate of
21 all county local option gross receipts taxes in effect for
22 the month that are imposed in the county area not within a
23 municipality; and

24 (2) for a county not described in Paragraph
25 (1) of this subsection, the sum of:

1 (a) the total deductions claimed
2 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the
3 month by taxpayers from business locations within a
4 municipality in the county multiplied by the combined rate of
5 all county local option gross receipts taxes in effect on
6 January 1, 2007 that are imposed throughout the county; and

7 (b) the total deductions claimed
8 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the
9 month by taxpayers from business locations in the county but
10 not within a municipality multiplied by the combined rate of
11 all county local option gross receipts taxes in effect on
12 January 1, 2007 that are imposed in the county area not
13 within a municipality."

14 SECTION 3. A new section of the Income Tax Act is
15 enacted to read:

16 "CREDIT--NURSES--2022 TAXABLE YEAR.--

17 A. For taxable year 2022, a taxpayer who is not a
18 dependent of another individual and who was employed full
19 time as a nurse at a hospital located in New Mexico may apply
20 for, and the department may allow, a tax credit against the
21 taxpayer's tax liability pursuant to the Income Tax Act
22 pursuant to the provisions of this section.

23 B. The amount of tax credit allowed pursuant to
24 this section shall be in an amount equal to one thousand
25 dollars (\$1,000).

1 C. To receive a tax credit provided by this
2 section, a taxpayer shall apply to the department on forms
3 and in the manner prescribed by the department. The
4 application shall include a certification by the hospital for
5 which the taxpayer was employed in 2022 that the taxpayer was
6 employed full time throughout 2022 as a nurse by the
7 hospital.

8 D. That portion of the tax credit that exceeds a
9 taxpayer's tax liability in the taxable year in which the
10 credit is claimed shall be refunded to the taxpayer.

11 E. A taxpayer allowed a tax credit pursuant to
12 this section shall report the amount of the credit to the
13 taxation and revenue department in a manner required by that
14 department.

15 F. The department shall compile an annual report
16 on the tax credit provided by this section that shall include
17 the number of taxpayers approved by the department to receive
18 the credit, the aggregate amount of credits approved and any
19 other information necessary to evaluate the credit. The
20 department shall present the report to the revenue
21 stabilization and tax policy committee and the legislative
22 finance committee with an analysis of the cost of the tax
23 credit.

24 G. As used in this section:

25 (1) "full time" means working at least

1 thirty hours per week for forty-four weeks per year;

2 (2) "hospital" means a facility licensed as
3 a hospital by the department of health; and

4 (3) "nurse" means a person licensed as a
5 registered nurse or licensed practical nurse pursuant to the
6 Nursing Practice Act."

7 SECTION 4. A new section of the Income Tax Act is
8 enacted to read:

9 "2021 INCOME TAX REBATE.--

10 A. A resident who is not a dependent of another
11 individual is eligible for a tax rebate of:

12 (1) five hundred dollars (\$500) for heads of
13 household, surviving spouses and married individuals filing
14 joint returns with adjusted gross income of less than one
15 hundred fifty thousand dollars (\$150,000); and

16 (2) two hundred fifty dollars (\$250) for
17 single individuals and married individuals filing separate
18 returns with adjusted gross income of less than seventy-five
19 thousand dollars (\$75,000).

20 B. The rebate provided by this section may be
21 deducted from the taxpayer's New Mexico income tax liability
22 for taxable year 2021.

23 C. If the amount of rebate exceeds the taxpayer's
24 income tax liability, the excess shall be refunded to the
25 taxpayer.

1 D. The department may require a taxpayer to claim
2 the rebate provided by this section on forms and in a manner
3 required by the department.

4 E. The rebate provided by this section shall not
5 be allowed after June 30, 2023."

6 **SECTION 5.** A new section of the Income Tax Act is
7 enacted to read:

8 "CHILD INCOME TAX CREDIT.--

9 A. For taxable years beginning January 1, 2023 and
10 prior to January 1, 2032, a taxpayer who is a resident and is
11 not a dependent of another individual may apply for, and the
12 department may allow, a credit against the taxpayer's tax
13 liability imposed pursuant to the Income Tax Act for each
14 qualifying child of the taxpayer. The tax credit provided by
15 this section may be referred to as the "child income tax
16 credit".

17 B. The child income tax credit may be claimed as
18 shown in the following table:

Adjusted gross income is		Amount of credit per
Over	But not over	qualifying child is
\$ 0	\$25,000	\$175
25,000	50,000	150
50,000	75,000	125
75,000	100,000	100
100,000	200,000	75

1	200,000	350,000	50
2	350,000		25.

3 C. If a taxpayer's adjusted gross income is less
4 than zero, the taxpayer may claim a tax credit in the amount
5 shown in the first row of the table provided in Subsection B
6 of this section.

7 D. To receive a child income tax credit, a
8 taxpayer shall apply to the department on forms and in the
9 manner prescribed by the department.

10 E. That portion of a child income tax credit that
11 exceeds a taxpayer's tax liability in the taxable year in
12 which the credit is claimed shall be refunded.

13 F. Married individuals filing separate returns for
14 a taxable year for which they could have filed a joint return
15 may each claim only one-half of the child income tax credit
16 that would have been claimed on a joint return.

17 G. A taxpayer allowed a tax credit pursuant to
18 this section shall report the amount of the credit to the
19 department in a manner required by the department.

20 H. The department shall compile an annual report
21 on the child income tax credit that shall include the number
22 of taxpayers approved by the department to receive the
23 credit, the aggregate amount of credits approved and any
24 other information necessary to evaluate the effectiveness of
25 the credit. The department shall compile and present the

1 annual report to the revenue stabilization and tax policy
2 committee and the legislative finance committee with an
3 analysis of the cost of the tax credit.

4 I. As used in this section, "qualifying child"
5 means "qualifying child" as defined by Section 152(c) of the
6 Internal Revenue Code, as that section may be amended or
7 renumbered, but includes any minor child or stepchild of the
8 taxpayer who would be a qualifying child for federal income
9 tax purposes if the public assistance contributing to the
10 support of the child or stepchild was considered to have been
11 contributed by the taxpayer."

12 SECTION 6. A new section of the Income Tax Act is
13 enacted to read:

14 "EXEMPTION--ARMED FORCES RETIREMENT PAY.--

15 A. An individual who is an armed forces retiree
16 may claim an exemption in the following amounts of military
17 retirement pay includable, except for this exemption, in net
18 income:

19 (1) for taxable year 2022, ten thousand
20 dollars (\$10,000);

21 (2) for taxable year 2023, twenty thousand
22 dollars (\$20,000); and

23 (3) for taxable years 2024 through 2026,
24 thirty thousand dollars (\$30,000).

25 B. As used in this section, "armed forces retiree"

1 means a former member of the armed forces of the United
2 States who has qualified by years of service or disability to
3 separate from military service with lifetime benefits."

4 SECTION 7. A new section of the Income Tax Act is
5 enacted to read:

6 "EXEMPTION--SOCIAL SECURITY INCOME.--An individual may
7 claim an exemption in an amount equal to the amount included
8 in adjusted gross income pursuant to Section 86 of the
9 Internal Revenue Code, as that section may be amended or
10 renumbered, of income includable except for this exemption in
11 net income; provided that the individual's adjusted gross
12 income shall not exceed:

13 A. seventy-five thousand dollars (\$75,000) for
14 married individuals filing separate returns;

15 B. one hundred fifty thousand dollars (\$150,000)
16 for heads of household, surviving spouses and married
17 individuals filing joint returns; and

18 C. one hundred thousand dollars (\$100,000) for
19 single individuals."

20 SECTION 8. Section 7-2-18.31 NMSA 1978 (being Laws
21 2020, Chapter 13, Section 1) is amended to read:

22 "7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX
23 CREDIT.--

24 A. For taxable years prior to January 1, 2032, a
25 taxpayer who is not a dependent of another individual and

1 who, on or after March 1, 2020, purchases and installs a
2 solar thermal system or a photovoltaic system in a residence,
3 business or agricultural enterprise in New Mexico owned by
4 that taxpayer, may apply for, and the department may allow, a
5 credit against the taxpayer's tax liability imposed pursuant
6 to the Income Tax Act in an amount provided in Subsection C
7 of this section. The tax credit provided by this section may
8 be referred to as the "new solar market development income
9 tax credit".

10 B. The purpose of the new solar market development
11 income tax credit is to encourage the installation of solar
12 thermal and photovoltaic systems in residences, businesses
13 and agricultural enterprises.

14 C. The department may allow a new solar market
15 development income tax credit of ten percent of the purchase
16 and installation costs of a solar thermal or photovoltaic
17 system.

18 D. The new solar market development income tax
19 credit shall not exceed six thousand dollars (\$6,000) per
20 taxpayer per taxable year. The department shall allow a tax
21 credit only for solar thermal and photovoltaic systems
22 certified pursuant to Subsection E of this section.

23 E. A taxpayer shall apply for certification of
24 eligibility for the new solar market development income tax
25 credit from the energy, minerals and natural resources

1 department on forms and in the manner prescribed by that
2 department. The aggregate amount of credits that may be
3 certified as eligible in any calendar year is twelve million
4 dollars (\$12,000,000). Completed applications shall be
5 considered in the order received. Applications for
6 certification received after this limitation has been met in
7 a calendar year shall not be approved. The application shall
8 include proof of purchase and installation of a solar thermal
9 or photovoltaic system, that the system meets technical
10 specifications and requirements relating to safety, code and
11 standards compliance, solar collector orientation and sun
12 exposure, minimum system sizes, system applications and lists
13 of eligible components and any additional information that
14 the energy, minerals and natural resources department may
15 require to determine eligibility for the credit. A dated
16 certificate of eligibility shall be issued to the taxpayer
17 providing the amount of the new solar market development
18 income tax credit for which the taxpayer is eligible and the
19 taxable year in which the credit may be claimed. A
20 certificate of eligibility for a new solar market development
21 income tax credit may be sold, exchanged or otherwise
22 transferred to another taxpayer for the full value of the
23 credit. The parties to such a transaction shall notify the
24 department of the sale, exchange or transfer within ten days
25 of the sale, exchange or transfer.

1 F. A taxpayer may claim a new solar market
2 development income tax credit for the taxable year in which
3 the taxpayer purchases and installs a solar thermal or
4 photovoltaic system. To receive a new solar market
5 development income tax credit, a taxpayer shall apply to the
6 department on forms and in the manner prescribed by the
7 department within twelve months following the calendar year
8 in which the system was installed. The application shall
9 include a certification made pursuant to Subsection E of this
10 section.

11 G. That portion of a new solar market development
12 income tax credit that exceeds a taxpayer's tax liability in
13 the taxable year in which the credit is claimed shall be
14 refunded to the taxpayer.

15 H. Married individuals filing separate returns for
16 a taxable year for which they could have filed a joint return
17 may each claim only one-half of the new solar market
18 development income tax credit that would have been claimed on
19 a joint return.

20 I. A taxpayer may be allocated the right to claim
21 a new solar market development income tax credit in
22 proportion to the taxpayer's ownership interest if the
23 taxpayer owns an interest in a business entity that is taxed
24 for federal income tax purposes as a partnership or limited
25 liability company and that business entity has met all of the

1 requirements to be eligible for the credit. The total credit
2 claimed by all members of the partnership or limited
3 liability company shall not exceed the allowable credit
4 pursuant to this section.

5 J. A taxpayer allowed a tax credit pursuant to
6 this section shall report the amount of the credit to the
7 taxation and revenue department in a manner required by that
8 department.

9 K. The taxation and revenue department shall
10 compile an annual report on the new solar market development
11 income tax credit that shall include the number of taxpayers
12 approved by the department to receive the credit, the
13 aggregate amount of credits approved and any other
14 information necessary to evaluate the credit. The department
15 shall present the report to the revenue stabilization and tax
16 policy committee and the legislative finance committee with
17 an analysis of the cost of the tax credit.

18 L. As used in this section:

19 (1) "photovoltaic system" means an energy
20 system that collects or absorbs sunlight for conversion into
21 electricity; and

22 (2) "solar thermal system" means an energy
23 system that collects or absorbs solar energy for conversion
24 into heat for the purposes of space heating, space cooling or
25 water heating."

1 SECTION 9. Section 7-2-18.32 NMSA 1978 (being Laws
2 2021, Chapter 84, Section 2) is amended to read:

3 "7-2-18.32. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

4 A. The tax credit provided by this section may be
5 referred to as the "2021 sustainable building tax credit".

6 For taxable years prior to January 1, 2028, a taxpayer who is
7 a building owner and files an income tax return is eligible
8 to be granted a 2021 sustainable building tax credit by the
9 department if the requirements of this section are met. The
10 2021 sustainable building tax credit shall be available for
11 the construction in New Mexico of a sustainable building, the
12 renovation of an existing building in New Mexico, the
13 permanent installation of manufactured housing, regardless of
14 where the housing is manufactured, that is a sustainable
15 building or the installation of energy-conserving products to
16 existing buildings in New Mexico, as provided in this
17 section. The tax credit provided in this section may not be
18 claimed with respect to the same sustainable building for
19 which the 2021 sustainable building tax credit provided in
20 the Corporate Income and Franchise Tax Act or the 2015
21 sustainable building tax credit pursuant to the Income Tax
22 Act or the Corporate Income and Franchise Tax Act has been
23 claimed.

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

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

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

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

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

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

14	Additional Criteria	Qualified	Tax Credit
15		Occupied	per Square
16		Square Footage	Foot
17	Fully Electric Building	First 50,000	\$1.00
18		Over 50,000	
19		up to 200,000	\$0.50
20	Zero Carbon, Energy,		
21	Waste or Water Certified	First 50,000	\$0.25
22		Over 50,000	
23		up to 200,000	\$0.10;

24 (2) for the renovation of a commercial building
 25 that was built at least ten years prior to the date of the

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

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

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;

17 (4) for the construction of a new sustainable
18 residential building that is broadband ready and electric
19 vehicle ready and is completed on or after January 1, 2022,
20 the amount of credit shall be calculated:

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

25	Rating Level	Qualified	Tax Credit
----	--------------	-----------	------------

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
10 square 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
19 building, the amount of credit shall be based on the cost of
20 the product installed, which shall include installation
21 costs, and if the building is affordable housing or the
22 taxpayer is a low-income taxpayer, per product installed:

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

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

19 C. A person who 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

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

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

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

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

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

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

19 (3) two hundred fifty thousand dollars
20 (\$250,000) with respect to the construction of new
21 sustainable residential buildings that are manufactured
22 housing;

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

25 (5) two million nine hundred thousand dollars

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

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

19 F. Installation of a solar thermal system or a
20 photovoltaic system eligible for the new solar market
21 development tax credit pursuant to Section 7-2-18.31 NMSA
22 1978 shall not be used as a component of qualification for
23 the rating system certification level used in determining
24 eligibility for the 2021 sustainable building tax credit,
25 unless a new solar market development tax credit pursuant to

1 Section 7-2-18.31 NMSA 1978 has not been claimed with respect
2 to that system and the building owner and the taxpayer
3 claiming the 2021 sustainable building tax credit certify
4 that such a tax credit will not be claimed with respect to
5 that system.

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

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

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

23 (2) one hundred thousand dollars (\$100,000)
24 or more, increments of twenty-five percent of the total
25 credit amount in each of the four taxable years, including

1 the taxable year for which the credit is approved and the
2 three subsequent taxable years, shall be applied against the
3 taxpayer's income tax liability.

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

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

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

1 return.

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

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

24 N. For the purposes of this section:

25 (1) "broadband ready" means a building with an

1 internet connection capable of connecting to a broadband
2 provider;

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

10 (3) "build green gold" means the gold level
11 certification standard adopted by build green New Mexico,
12 which includes water conservation standards and uses thirty
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 (4) "electric vehicle ready" means a property
18 that for commercial buildings provides at least ten percent
19 of parking spaces and for residential buildings at least one
20 parking space with one forty-ampere, two-hundred-eight-volt
21 or two-hundred-forty-volt dedicated branch circuit for
22 servicing electric vehicles that terminates in a suitable
23 termination point, such as a receptacle or junction box, and
24 is located in reasonably close proximity to the proposed
25 location of the parking spaces;

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

9 (6) "Energy Star" means products and devices
10 certified under the energy star program administered by the
11 United States environmental protection agency and United
12 States department of energy that meet the specified
13 performance requirements at the installed locations;

14 (7) "fully electric building" means a building
15 that uses a permanent supply of electricity as the source of
16 energy for all space heating, water heating, including pools
17 and spas, cooking appliances and clothes drying appliances
18 and, in the case of a new building, has no natural gas or
19 propane plumbing installed in the building or, in the case of
20 an existing building, has no connected natural gas or propane
21 plumbing;

22 (8) "LEED" means the most current leadership in
23 energy and environmental design green building rating system
24 guidelines developed and adopted by the United States green
25 building council;

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

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

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

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

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

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

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

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

22 (17) "manufactured housing" means a
23 multisectioned home that is:

24 (a) a manufactured home or modular home;

25 (b) a single-family dwelling with a heated

1 area of at least thirty-six feet by twenty-four feet and a
2 total area of at least eight hundred sixty-four square feet;

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

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

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

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

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

19 (c) the United States environmental
20 protection agency for Energy Star-certified manufactured
21 homes;

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

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

1 building;

2 (21) "sustainable commercial building" means:

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

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

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

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

5 (22) "sustainable residential building" means:

6 (a) a building used as a single-family
7 residence that: 1) is certified as LEED-H platinum or gold
8 or build green emerald or gold; 2) uses at least thirty
9 percent less energy than is required by the prescriptive path
10 of the most current residential energy conservation code
11 promulgated by the construction industries division of the
12 regulation and licensing department for build green gold or
13 LEED-H, or uses at least forty percent less energy than is
14 required by the prescriptive path of the most current
15 residential energy conservation code promulgated by the
16 construction industries division of the regulation and
17 licensing department for build green emerald or LEED
18 platinum; 3) has indoor plumbing fixtures and water-using
19 appliances that, on average, have flow rates equal to or
20 lower than the flow rates required for certification by
21 WaterSense; 4) if landscape area is available at the front of
22 the property, has at least one water line outside the
23 building below the frost line that may be connected to a drip
24 irrigation system; and 5) if landscape area is available at
25 the rear of the property, has at least one water line outside

1 the building below the frost line that may be connected to a
2 drip irrigation system; or

3 (b) manufactured housing that is Energy
4 Star-qualified;

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

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

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

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

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

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

24 **SECTION 10.** Section 7-2A-28.1 NMSA 1978 (being Laws
25 2021, Chapter 84, Section 4) is amended to read:

1 "7-2A-28.1. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

2 A. The tax credit provided by this section may be
3 referred to as the "2021 sustainable building tax credit".
4 For taxable years prior to January 1, 2028, a taxpayer that
5 is a building owner and files a corporate income tax return
6 is eligible to be granted a 2021 sustainable building tax
7 credit by the department if the requirements of this section
8 are met. The 2021 sustainable building tax credit shall be
9 available for the construction in New Mexico of a sustainable
10 building, the renovation of an existing building in New
11 Mexico, the permanent installation of manufactured housing,
12 regardless of where the housing is manufactured, that is a
13 sustainable building or the installation of energy-conserving
14 products to existing buildings in New Mexico, as provided in
15 this section. The tax credit provided in this section may
16 not be claimed with respect to the same sustainable building
17 for which the 2021 sustainable building tax credit provided
18 in the Income Tax Act or the 2015 sustainable building tax
19 credit pursuant to the Income Tax Act or the Corporate Income
20 and Franchise Tax Act has been claimed.

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

23 (1) for the construction of a new sustainable
24 commercial building that is broadband ready and electric
25 vehicle ready and is completed on or after January 1, 2022,

1 the amount of credit shall be calculated:

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

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

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

8 (b) with additional amounts based on the
9 additional criteria and the amount of qualified occupied
10 square 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	First 50,000	\$1.00
15		Over 50,000	
16		up to 200,000	\$0.50
17	Zero Carbon, Energy,		
18	Waste or Water Certified	First 50,000	\$0.25
19		Over 50,000	
20		up to 200,000	\$0.10;

21 (2) for the renovation of a commercial building
22 that was built at least ten years prior to the date of the
23 renovation, has twenty thousand square feet or more of space
24 in which temperature is controlled and is broadband ready and
25 electric vehicle ready, the amount of credit shall be

1 calculated by multiplying two dollars twenty-five cents
 2 (\$2.25) by the amount of qualified occupied square footage in
 3 the building, up to a maximum of one hundred fifty thousand
 4 dollars (\$150,000) per renovation; provided that the
 5 renovation reduces total energy and power costs by fifty
 6 percent when compared to the most current energy standard for
 7 buildings except low-rise residential buildings, as developed
 8 by the American society of heating, refrigerating and air-
 9 conditioning engineers;

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

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

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

14 (4) for the construction of a new sustainable
15 residential building that is broadband ready and electric
16 vehicle ready and is completed on or after January 1, 2022,
17 the amount of credit shall be calculated:

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

22	Rating Level	Qualified	Tax Credit
23		Occupied	per Square
24		Square Footage	Foot
25	LEED-H Platinum	Up to 2,000	\$5.50

1	LEED-H Gold	Up to 2,000	\$3.80
2	Build Green Emerald	Up to 2,000	\$5.50
3	Build Green Gold	Up to 2,000	\$3.80
4	Manufactured Housing	Up to 2,000	\$2.00; and

5 (b) with additional amounts based on the
6 additional criteria and the amount of qualified occupied
7 square 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	Up to 2,000	\$1.00
12	Zero Carbon, Energy,		
13	Waste or Water Certified	Up to 2,000	\$0.25; and

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

20	Product	Amount of Credit	
21		Affordable	Non-Affordable
22		Housing and	Housing and
23		Low-Income	Non-Low Income
24	Energy Star Air		
25	Source Heat Pump	\$2,000	\$1,000

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	\$1,000	\$500.

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

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

1 D. Except as provided in Subsection E of this
2 section, the energy, minerals and natural resources
3 department may issue a certificate of eligibility only if the
4 total amount of 2021 sustainable building tax credits
5 represented by certificates of eligibility issued by the
6 energy, minerals and natural resources department pursuant to
7 this section and pursuant to the Income Tax Act shall not
8 exceed in any calendar 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) two hundred fifty thousand dollars
16 (\$250,000) with respect to the construction of new
17 sustainable residential buildings that are manufactured
18 housing;

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

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

1 B of this section.

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

15 F. Installation of a solar thermal system or a
16 photovoltaic system eligible for the new solar market
17 development tax credit pursuant to Section 7-2-18.31 NMSA
18 1978 shall not be used as a component of qualification for
19 the rating system certification level used in determining
20 eligibility for the 2021 sustainable building tax credit,
21 unless a new solar market development tax credit pursuant to
22 Section 7-2-18.31 NMSA 1978 has not been claimed with respect
23 to that system and the building owner and the taxpayer
24 claiming the 2021 sustainable building tax credit certify
25 that such a tax credit will not be claimed with respect to

1 that system.

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

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

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

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

25 I. If the sum of all 2021 sustainable building tax

1 credits that can be applied to a taxable year for a taxpayer,
2 calculated according to Paragraph (1) or (2) of Subsection H
3 of this section, exceeds the taxpayer's corporate income tax
4 liability for that taxable year, the excess may be carried
5 forward for a period of up to seven years.

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

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

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

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

13 M. For the purposes of this section:

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

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

24 (3) "build green gold" means the gold level
25 certification standard adopted by build green New Mexico,

1 which includes water conservation standards and uses thirty
2 percent less energy than is required by the prescriptive path
3 of the most current residential energy conservation code
4 promulgated by the construction industries division of the
5 regulation and licensing department;

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

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

23 (6) "Energy Star" means products and devices
24 certified under the energy star program administered by the
25 United States environmental protection agency and United

1 States department of energy that meet the specified
2 performance requirements at the installed locations;

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

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

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

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

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

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

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

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

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

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

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

13 (a) a manufactured home or modular home;

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

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

23 (d) installed consistent with the
24 Manufactured Housing Act and rules adopted pursuant to that
25 act relating to permanent foundations;

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

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

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

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

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

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

16 (21) "sustainable commercial building" means:

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

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

1 licensing department for build green gold or LEED-H, or uses
2 at least forty percent less energy than is required by the
3 prescriptive path of the most current residential energy
4 conservation code promulgated by the construction industries
5 division of the regulation and licensing department for build
6 green emerald or LEED platinum; or

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

19 (22) "sustainable residential building" means:

20 (a) a building used as a single-family
21 residence that: 1) is certified as LEED-H platinum or gold
22 or build green emerald or gold; 2) uses at least thirty
23 percent less energy than is required by the prescriptive path
24 of the most current residential energy conservation code
25 promulgated by the construction industries division of the

1 regulation and licensing department for build green gold or
2 LEED-H, or uses at least forty percent less energy than is
3 required by the prescriptive path of the most current
4 residential energy conservation code promulgated by the
5 construction industries division of the regulation and
6 licensing department for build green emerald or LEED
7 platinum; 3) has indoor plumbing fixtures and water-using
8 appliances that, on average, have flow rates equal to or
9 lower than the flow rates required for certification by
10 WaterSense; 4) if landscape area is available at the front of
11 the property, has at least one water line outside the
12 building below the frost line that may be connected to a drip
13 irrigation system; and 5) if landscape area is available at
14 the rear of the property, has at least one water line outside
15 the building below the frost line that may be connected to a
16 drip irrigation system; or

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

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

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

25 (25) "zero carbon certified" means a building

1 that is certified as LEED zero carbon by achieving a carbon-
2 dioxide-equivalent balance of zero for the building;

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

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

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

13 SECTION 11. Section 7-9-3 NMSA 1978 (being Laws 1978,
14 Chapter 46, Section 1, as amended by Laws 2021, Chapter 65,
15 Section 11 and by Laws 2021, Chapter 66, Section 1) is
16 amended to read:

17 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
18 Compensating Tax Act:

19 A. "buying" or "selling" means a transfer of
20 property for consideration or the performance of service for
21 consideration;

22 B. "department" means the taxation and revenue
23 department, the secretary of taxation and revenue or an
24 employee of the department exercising authority lawfully
25 delegated to that employee by the secretary;

1 C. "digital good" means a digital product delivered
2 electronically, including software, music, photography,
3 video, reading material, an application and a ringtone;

4 D. "disclosed agency" means an agent receiving
5 money on behalf of a principal if the agent or the agent's
6 principal disclosed the agency relationship to a third party
7 from which the agent receives money, or if the third party
8 otherwise has actual knowledge that the agent receives money
9 on behalf of the principal;

10 E. "financial corporation" means a savings and loan
11 association or an incorporated savings and loan company,
12 trust company, mortgage banking company, consumer finance
13 company or other financial corporation;

14 F. "initial use" or "initially used" means the
15 first employment for the intended purpose and does not
16 include the following activities:

17 (1) observation of tests conducted by the
18 performer of services;

19 (2) participation in progress reviews,
20 briefings, consultations and conferences conducted by the
21 performer of services;

22 (3) review of preliminary drafts, drawings and
23 other materials prepared by the performer of services;

24 (4) inspection of preliminary prototypes
25 developed by the performer of services; or

1 (5) similar activities;

2 G. "lease" or "leasing" means an arrangement
3 whereby, for a consideration, the owner of property grants
4 another person the exclusive right to possess and use the
5 property for a definite term;

6 H. "licensing" or "license" means an arrangement
7 whereby, for a consideration, the owner of property grants
8 another person a revocable, non-exclusive right to use the
9 property;

10 I. "local option gross receipts tax" means a tax
11 authorized to be imposed by a county or municipality upon a
12 taxpayer's gross receipts and required to be collected by the
13 department at the same time and in the same manner as the
14 gross receipts tax;

15 J. "manufactured home" means a movable or portable
16 housing structure for human occupancy that exceeds either a
17 width of eight feet or a length of forty feet constructed to
18 be towed on its own chassis and designed to be installed with
19 or without a permanent foundation;

20 K. "manufacturing" means combining or processing
21 components or materials to increase their value for sale in
22 the ordinary course of business, but does not include
23 construction services; farming; electric power generation;
24 processing of natural resources, including hydrocarbons; or
25 the processing or preparation of meals for immediate

1 consumption;

2 L. "manufacturing service" means the service of
3 combining or processing components or materials owned by
4 another, but does not include construction services; farming;
5 electric power generation; processing of natural resources,
6 including hydrocarbons; or the processing or preparation of
7 meals for immediate consumption;

8 M. "marketplace provider" means a person who
9 facilitates the sale, lease or license of tangible personal
10 property or services or licenses for use of real property on
11 a marketplace seller's behalf, or on the marketplace
12 provider's own behalf, by:

13 (1) listing or advertising the sale, lease or
14 license, by any means, whether physical or electronic,
15 including by catalog, internet website or television or radio
16 broadcast; and

17 (2) either directly or indirectly, through
18 agreements or arrangements with third parties collecting
19 payment from the customer and transmitting that payment to
20 the seller, regardless of whether the marketplace provider
21 receives compensation or other consideration in exchange for
22 the marketplace provider's services;

23 N. "marketplace seller" means a person who sells,
24 leases or licenses tangible personal property or services or
25 who licenses the use of real property through a marketplace

1 provider;

2 O. "person" means:

3 (1) an individual, estate, trust, receiver,
4 cooperative association, club, corporation, company, firm,
5 partnership, limited liability company, limited liability
6 partnership, joint venture, syndicate or other entity,
7 including any gas, water or electric utility owned or
8 operated by a county, municipality or other political
9 subdivision of the state; or

10 (2) a national, federal, state, Indian or other
11 governmental unit or subdivision, or an agency, department or
12 instrumentality of any of the foregoing;

13 P. "property" means:

14 (1) real property;

15 (2) tangible personal property, including
16 electricity and manufactured homes;

17 (3) licenses, including licenses of digital
18 goods, but not including the licenses of copyrights,
19 trademarks or patents; and

20 (4) franchises;

21 Q. "research and development services" means an
22 activity engaged in for other persons for consideration, for
23 one or more of the following purposes:

24 (1) advancing basic knowledge in a recognized
25 field of natural science;

1 (2) advancing technology in a field of
2 technical endeavor;

3 (3) developing a new or improved product,
4 process or system with new or improved function, performance,
5 reliability or quality, whether or not the new or improved
6 product, process or system is offered for sale, lease or
7 other transfer;

8 (4) developing new uses or applications for an
9 existing product, process or system, whether or not the new
10 use or application is offered as the rationale for purchase,
11 lease or other transfer of the product, process or system;

12 (5) developing analytical or survey activities
13 incorporating technology review, application, trade-off
14 study, modeling, simulation, conceptual design or similar
15 activities, whether or not offered for sale, lease or other
16 transfer; or

17 (6) designing and developing prototypes or
18 integrating systems incorporating the advances, developments
19 or improvements included in Paragraphs (1) through (5) of
20 this subsection;

21 R. "secretary" means the secretary of taxation and
22 revenue or the secretary's delegate;

23 S. "service" means all activities engaged in for
24 other persons for a consideration, which activities involve
25 predominantly the performance of a service as distinguished

1 from selling or leasing property. "Service" includes
2 activities performed by a person for its members or
3 shareholders. In determining what is a service, the intended
4 use, principal objective or ultimate objective of the
5 contracting parties shall not be controlling. "Service"
6 includes construction activities and all tangible personal
7 property that will become an ingredient or component part of
8 a construction project. That tangible personal property
9 retains its character as tangible personal property until it
10 is installed as an ingredient or component part of a
11 construction project in New Mexico. Sales of tangible
12 personal property that will become an ingredient or component
13 part of a construction project to persons engaged in the
14 construction business are sales of tangible personal
15 property; and

16 T. "use" or "using" includes use, consumption or
17 storage other than storage for subsequent sale in the
18 ordinary course of business or for use solely outside this
19 state."

20 SECTION 12. Section 7-9-4 NMSA 1978 (being Laws 1966,
21 Chapter 47, Section 4, as amended) is amended to read:

22 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
23 "GROSS RECEIPTS TAX".--

24 A. For the privilege of engaging in business, an
25 excise tax equal to the following percentages of gross

1 receipts is imposed on any person engaging in business in New
2 Mexico:

3 (1) prior to July 1, 2023, five percent; and
4 (2) beginning July 1, 2023, four and
5 seven-eighths percent, except as provided in Subsection C of
6 this section.

7 B. The tax imposed by this section shall be
8 referred to as the "gross receipts tax".

9 C. If, for any single fiscal year occurring after
10 fiscal year 2025 and prior to fiscal year 2030, gross
11 receipts tax revenues are less than ninety-five percent of
12 the gross receipts tax revenues for the previous fiscal year,
13 as determined by the secretary of finance and administration,
14 the rate of the gross receipts tax shall be five and
15 one-eighth percent beginning on the July 1 following the
16 determination made by the secretary of finance and
17 administration.

18 D. On or before February 1 of each year, until the
19 rate of the gross receipts tax is adjusted to five and one-
20 eighth percent pursuant to Subsection C of this section, the
21 secretary of finance and administration shall make a
22 determination for the purposes of Subsection C of this
23 section. If the rate of tax is adjusted pursuant to that
24 subsection, the secretary shall certify to the secretary of
25 taxation and revenue that the rate of the gross receipts tax

1 shall be five and one-eighth percent, effective on the
2 following July 1.

3 E. As used in this section, "gross receipts tax
4 revenues" means the net receipts attributable to the gross
5 receipts tax and distributed to the general fund."

6 SECTION 13. Section 7-9-7 NMSA 1978 (being Laws 1966,
7 Chapter 47, Section 7, as amended) is amended to read:

8 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
9 "COMPENSATING TAX".--

10 A. For the privilege of making taxable use of
11 tangible personal property in New Mexico, there is imposed on
12 the person using the property an excise tax equal to five
13 percent prior to July 1, 2023 and four and seven-eighths
14 percent beginning July 1, 2023, except as provided in
15 Subsection G of this section, of the value of tangible
16 property that was:

17 (1) manufactured by the person using the
18 property in the state; or

19 (2) acquired in a transaction for which the
20 seller's receipts were not subject to the gross receipts tax.

21 B. For the purpose of Subsection A of this section,
22 value of tangible personal property shall be the adjusted
23 basis of the property for federal income tax purposes
24 determined as of the time of acquisition or introduction into
25 this state or of conversion of the property to taxable use,

1 whichever is later. If no adjusted basis for federal income
2 tax purposes is established for the property, a reasonable
3 value of the property shall be used.

4 C. For the privilege of making taxable use of a
5 license or franchise in New Mexico, there is imposed on the
6 person using the license or franchise an excise tax equal to
7 the rate provided in Subsection A or G of this section, as
8 applicable, against the value of the license or franchise in
9 its use in this state. The department by rule, ruling or
10 instruction shall fairly apportion, where appropriate, the
11 value of a license or franchise to its value in use in New
12 Mexico. The tax shall apply only to the value of a license
13 or franchise used in New Mexico where the license or
14 franchise was acquired in a transaction the receipts from
15 which were not subject to the gross receipts tax.

16 D. For the privilege of making taxable use of
17 services in New Mexico, there is imposed on the person using
18 the services an excise tax equal to the rate provided in
19 Subsection A or G of this section, as applicable, against the
20 value of the services at the time the services were performed
21 or the product of the service was acquired. For use of
22 services to be a taxable use pursuant to this subsection, the
23 services shall have been acquired in a transaction the
24 receipts from which were not subject to the gross receipts
25 tax.

1 E. For purposes of this section, receipts are not
2 subject to the gross receipts tax if the person responsible
3 for the gross receipts tax on those receipts lacked nexus in
4 New Mexico or the receipts were exempt or allowed to be
5 deducted pursuant to the Gross Receipts and Compensating Tax
6 Act.

7 F. The tax imposed by this section shall be
8 referred to as the "compensating tax".

9 G. If the gross receipts tax is increased to five
10 and one-eighth percent pursuant to Subsection C of Section
11 7-9-4 NMSA 1978, the rate of the compensating tax shall be
12 five and one-eighth percent.

13 H. As used in this section, "taxable use" means use
14 by a person who acquires tangible personal property, a
15 license, a franchise or a service, and the use of which would
16 not have qualified for an exemption or deduction pursuant to
17 the Gross Receipts and Compensating Tax Act."

18 **SECTION 14.** A new section of the Gross Receipts and
19 Compensating Tax Act is enacted to read:

20 "~~DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--~~
21 ~~SALES OF SERVICES TO MANUFACTURERS.--~~

22 A. Receipts from selling professional services may
23 be deducted from gross receipts or from governmental gross
24 receipts if the sale is made to a person engaged in the
25 business of manufacturing who delivers a nontaxable

1 transaction certificate to the seller or provides alternative
2 evidence pursuant to Section 7-9-43 NMSA 1978. The
3 professional services shall be related to the product that
4 the buyer is in the business of manufacturing.

5 B. The purpose of the deductions provided in this
6 section is to encourage manufacturing businesses to locate in
7 New Mexico and to reduce the tax burden, including reducing
8 pyramiding, on the professional services that are purchased
9 by manufacturing businesses in New Mexico.

10 C. A taxpayer allowed a deduction pursuant to this
11 section shall report the amount of the deduction separately
12 in a manner required by the department.

13 D. The department shall compile an annual report on
14 the deduction provided by this section that shall include the
15 number of taxpayers that claimed the deduction, the aggregate
16 amount of deductions claimed and any other information
17 necessary to evaluate the effectiveness of the deduction.
18 The department shall compile and present the report to the
19 revenue stabilization and tax policy committee and the
20 legislative finance committee with an analysis of the cost of
21 the deduction and whether the deduction is performing the
22 purpose for which it was created.

23 E. As used in this section:

24 (1) "accounting services" means the systematic
25 and comprehensive recording of financial transactions

1 pertaining to a business entity and the process of
2 summarizing, analyzing and reporting these transactions to
3 oversight agencies or tax collection entities, including
4 certified public auditing, attest services and preparing
5 financial statements, bookkeeping, tax return preparation,
6 advice and consulting and, where applicable, representing
7 taxpayers before tax collection agencies. "Accounting
8 services" does not include, except as provided with respect
9 to financial management services, investment advice, wealth
10 management advice or consulting or any tax return
11 preparation, advice, counseling or representation for
12 individuals, regardless of whether those individuals are
13 owners of pass-through entities, such as partnerships,
14 limited liability companies or S corporations;

15 (2) "architectural services" means services
16 related to the art and science of designing and building
17 structures for human habitation or use and includes planning,
18 providing preliminary studies, designs, specifications and
19 working drawings and providing for general administration of
20 construction contracts;

21 (3) "engineering services" means consultation,
22 the production of a creative work, investigation, evaluation,
23 planning and design, the performance of studies and reviewing
24 planning documents when performed by, or under the
25 supervision of, a licensed engineer, including the design,

1 development and testing of mechanical, electrical, hydraulic,
2 chemical, pneumatic or thermal machinery or equipment,
3 industrial or commercial work systems or processes and
4 military equipment. "Engineering services" does not include
5 medical or medical laboratory services, any engineering
6 performed in connection with a construction service or the
7 design and installation of computer or computer network
8 infrastructure;

9 (4) "information technology services" means
10 separately stated services for installing and maintaining a
11 business's computers and computer network, including
12 performing computer network design; installing, repairing,
13 maintaining or restoring computer networks, hardware or
14 software; and performing custom software programming or
15 making custom modifications to existing software programming.

16 "Information technology services" does not include:

17 (a) software maintenance and update
18 agreements, unless made in conjunction with custom
19 programming;

20 (b) computers, servers, chilling equipment
21 and pre-programmed software;

22 (c) data processing services or the
23 processing or storage of information to compile and produce
24 records of transactions for retrieval or use, including data
25 entry, data retrieval, data searches and information

1 compilation; or

2 (d) access to telecommunications or
3 internet;

4 (5) "legal services" means services performed
5 by a licensed attorney or under the supervision of a licensed
6 attorney for a client, regardless of the attorney's form of
7 business entity or whether the services are prepaid,
8 including legal representation before courts or
9 administrative agencies; drafting legal documents, such as
10 contracts or patent applications; legal research; advising
11 and counseling; arbitration; mediation; and notary public and
12 other ancillary legal services performed for a client in
13 conjunction with and under the supervision of a licensed
14 attorney. "Legal services" does not include lobbying or
15 government relations services, title insurance agent
16 services, licensing or selling legal software or legal
17 document templates, insurance investigation services or any
18 legal representation involving financial crimes or tax
19 evasion in New Mexico; and

20 (6) "professional services" means accounting
21 services, architectural services, engineering services,
22 information technology services and legal services."

23 SECTION 15. A new section of the Gross Receipts and
24 Compensating Tax Act is enacted to read:

25 "DEDUCTION--GROSS RECEIPTS AND GOVERNMENTAL GROSS

1 RECEIPTS--FEMININE HYGIENE PRODUCTS.--

2 A. Receipts from the sale of feminine hygiene
3 products may be deducted from gross receipts and governmental
4 gross receipts.

5 B. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately
7 in a manner required by the department.

8 C. The department shall compile an annual report on
9 the deduction provided by this section that shall include the
10 number of taxpayers that claimed the deduction, the aggregate
11 amount of deductions claimed and any other information
12 necessary to evaluate the effectiveness of the deduction.

13 The department shall present the report to the revenue
14 stabilization and tax policy committee and the legislative
15 finance committee with an analysis of the cost of the
16 deduction.

17 D. As used in this section, "feminine hygiene
18 products" means tampons, menstrual pads and sanitary napkins,
19 pantliners, menstrual sponges and menstrual cups."

20 SECTION 16. APPLICABILITY.--

21 A. The provisions of Section 7 of this act apply to
22 taxable years beginning on or after January 1, 2022.

23 B. The provisions of Section 8 of this act apply to
24 the purchase and installation of a solar thermal system or a
25 photovoltaic system in taxable years beginning on or after

1 January 1, 2022.

2 SECTION 17. EFFECTIVE DATE.--The effective date of the
3 provisions of Sections 1, 2, 4 and 11 through 15 of this act
4 is July 1, 2022. _____

HTRC/HB 163/a
Page 77

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25