AN ACT

RELATING TO TAXATION; CREATING A 2022 INCOME TAX CREDIT FOR NURSES EMPLOYED BY HOSPITALS IN NEW MEXICO; CREATING A TEMPORARY CHILD INCOME TAX CREDIT; EXEMPTING SOCIAL SECURITY INCOME FROM INCOME TAX FOR CERTAIN INDIVIDUALS; EXTENDING THE NEW SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT, INCREASING THE ANNUAL AGGREGATE CAP FOR THE CREDIT AND MAKING THE CREDIT REFUNDABLE AND TRANSFERABLE; AMENDING CERTAIN DATES TO EXTEND ELIGIBILITY FOR THE 2021 SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT, PROVIDING FOR AN EARLIER SUNSET DATE FOR THE CREDITS AND AMENDING QUALIFICATIONS FOR THE CREDITS; DEFINING "DISCLOSED AGENCY" IN THE GROSS RECEIPTS AND COMPENSATING TAX ACT; REDUCING THE RATES OF THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX; PROVIDING FOR AN INCREASE IN THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX IF GROSS RECEIPTS TAX
REVENUES DECREASE; PROVIDING GROSS RECEIPTS TAX AND
GOVERNMENTAL GROSS RECEIPTS TAX DEDUCTIONS FOR THE SALE OF
SERVICES TO A MANUFACTURER; PROVIDING GROSS RECEIPTS TAX AND
GOVERNMENTAL GROSS RECEIPTS TAX DEDUCTIONS FOR FEMININE HYGIENE
PRODUCTS.

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

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] CREDIT--NURSES--2022 TAXABLE YEAR.--

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

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

C. To receive a tax credit provided by this
section, a taxpayer shall apply to the department on forms and
in the manner prescribed by the department. The application
shall include a certification by the hospital for which the
taxpayer was employed in 2022 that the taxpayer was employed
full time throughout 2022 as a nurse by the hospital."
D. That portion of the tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

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

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

G. As used in this section:

(1) "full time" means working at least thirty hours per week for forty-four weeks per year;

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

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

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

"[NEW MATERIAL] CHILD INCOME TAX CREDIT.--
A. For taxable years beginning January 1, 2022 and prior to January 1, 2027, a taxpayer who is a resident and is not a dependent of another individual may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act for each qualifying child of the taxpayer. The tax credit provided by this section may be referred to as the "child income tax credit".

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

<table>
<thead>
<tr>
<th>Adjusted gross income is</th>
<th>Amount of credit per qualifying child is</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $0 and But not over $25,000</td>
<td>$175</td>
</tr>
<tr>
<td>25,000</td>
<td>150</td>
</tr>
<tr>
<td>50,000</td>
<td>125</td>
</tr>
<tr>
<td>75,000</td>
<td>100</td>
</tr>
<tr>
<td>100,000</td>
<td>75</td>
</tr>
<tr>
<td>200,000</td>
<td>50</td>
</tr>
<tr>
<td>350,000</td>
<td>25.</td>
</tr>
</tbody>
</table>

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

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

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

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

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

   H. The department shall compile an annual report on the child income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. Each year that the credit is in effect, the department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

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

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

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

A. seventy-five thousand dollars ($75,000) for married individuals filing separate returns;
B. one hundred fifty thousand dollars ($150,000) for heads of household, surviving spouses and married individuals filing joint returns; and
C. one hundred thousand dollars ($100,000) for single individuals."

SECTION 4. Section 7-2-18.31 NMSA 1978 (being Laws 2020, Chapter 13, Section 1) is amended to read:

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

A. For taxable years prior to January 1, [2028] 2032, a taxpayer who is not a dependent of another individual.
and who, on or after March 1, 2020, purchases and installs a
solar thermal system or a photovoltaic system in a residence,
business or agricultural enterprise in New Mexico owned by that
taxpayer, may apply for, and the department may allow, a credit
against the taxpayer's tax liability imposed pursuant to the
Income Tax Act in an amount provided in Subsection C of this
section. The tax credit provided by this section may be
referred to as the "new solar market development income tax
credit".

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

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

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

E. A taxpayer shall apply for certification of
eligibility for the new solar market development income tax
credit from the energy, minerals and natural resources
department on forms and in the manner prescribed by that
department. The aggregate amount of credits that may be
certified as eligible in any calendar year is [eight million
dollars ($8,000,000)] twelve million dollars ($12,000,000).

Completed applications shall be considered in the order
received. Applications for certification received after this
limitation has been met in a calendar year shall not be
approved. The application shall include proof of purchase and
installation of a solar thermal or photovoltaic system, that
the system meets technical specifications and requirements
relating to safety, code and standards compliance, solar
collector orientation and sun exposure, minimum system sizes,
system applications and lists of eligible components and any
additional information that the energy, minerals and natural
resources department may require to determine eligibility for
the credit. A dated certificate of eligibility shall be issued
to the taxpayer providing the amount of the new solar market
development income tax credit for which the taxpayer is
eligible and the taxable year in which the credit may be
claimed. A certificate of eligibility for a new solar market
development income tax credit may be sold, exchanged or
otherwise transferred to another taxpayer for the full value of
the credit. The parties to such a transaction shall notify the
department of the sale, exchange or transfer within ten days of
the sale, exchange or transfer.
F. A taxpayer may claim a new solar market development income tax credit for the taxable year in which the taxpayer purchases and installs a solar thermal or photovoltaic system. To receive a new solar market development income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the system was installed. The application shall include a certification made pursuant to Subsection E of this section.

G. That portion of a new solar market development income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for a maximum of five consecutive taxable years shall be refunded to the taxpayer.

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

I. A taxpayer may be allocated the right to claim a new solar market development income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be .222608.7
eligible for the credit. The total credit claimed by all
members of the partnership or limited liability company shall
not exceed the allowable credit pursuant to this section.

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

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

L. As used in this section:

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

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

SECTION 5. Section 7-2-18.32 NMSA 1978 (being Laws 2021,
Chapter 84, Section 2) is amended to read:
"7-2-18.32. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, 2028, a taxpayer who is a building owner and files an income tax return is eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2021 sustainable building tax credit provided in the Corporate Income and Franchise Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

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

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

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

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>First 10,000</td>
<td>$5.25</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$1.00</td>
</tr>
<tr>
<td>LEED-EB or CS Platinum</td>
<td>First 10,000</td>
<td>$3.40</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.30</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.35</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.35</td>
</tr>
<tr>
<td>LEED-CI Platinum</td>
<td>First 10,000</td>
<td>$1.50</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$0.40</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.30</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.30</td>
</tr>
<tr>
<td>LEED-NC Gold</td>
<td>First 10,000</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td>$0.25</td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$0.25</td>
</tr>
<tr>
<td>LEED-EB or -CS Gold</td>
<td>First 10,000</td>
<td>$2.00</td>
</tr>
</tbody>
</table>
(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

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

(2) For the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be .222608.7
calculated by multiplying two dollars twenty-five cents ($2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars ($150,000) per renovation; provided that the renovation reduces total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

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

<table>
<thead>
<tr>
<th>Product</th>
<th>Affordable Housing</th>
<th>Non-Affordable Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Ground Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Windows and Doors</td>
<td>100% of product cost up to</td>
<td>50% of product cost up to</td>
</tr>
</tbody>
</table>
### Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department

- **100% of product cost up to $2,000**
- **50% of product cost up to $1,000**

### Energy Star Heat Pump Water Heater

- **$700** **$350**

### Electric Vehicle Ready

- **100% of product cost up to $3,000**
- **50% of product cost up to $1,500**

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

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

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Platinum</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>LEED-H Gold</td>
<td>Up to 2,000</td>
<td>$3.80</td>
</tr>
</tbody>
</table>
Build Green Emerald  Up to 2,000  $5.50
Build Green Gold  Up to 2,000  $3.80
Manufactured Housing  Up to 2,000  $2.00; and

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Occupied per Square Foot</td>
</tr>
<tr>
<td>Fully Electric Building</td>
<td>Up to 2,000 $1.00</td>
</tr>
<tr>
<td>Zero Carbon, Energy, Waste or Water Certified</td>
<td>Up to 2,000 $0.25; and</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Product</th>
<th>Amount of Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affordable Housing and Low-Income</td>
<td>Non-Affordable Housing and Non-Low Income</td>
</tr>
<tr>
<td>Energy Star Air</td>
<td>$2,000 $1,000</td>
</tr>
<tr>
<td>Energy Star Ground</td>
<td></td>
</tr>
<tr>
<td>Product</td>
<td>Credit (2021)</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
</tr>
<tr>
<td>Energy Star</td>
<td></td>
</tr>
<tr>
<td>Windows and Doors</td>
<td>100% of cost</td>
</tr>
<tr>
<td></td>
<td>cost up to</td>
</tr>
<tr>
<td></td>
<td>$2,000</td>
</tr>
<tr>
<td>Insulation Improvements That</td>
<td></td>
</tr>
<tr>
<td>Meet Rules of the</td>
<td></td>
</tr>
<tr>
<td>Energy, Minerals and Natural</td>
<td></td>
</tr>
<tr>
<td>Resources Department</td>
<td>100% of product</td>
</tr>
<tr>
<td></td>
<td>cost up to</td>
</tr>
<tr>
<td></td>
<td>$2,000</td>
</tr>
<tr>
<td>Energy Star Heat Pump Water</td>
<td></td>
</tr>
<tr>
<td>Water Heater</td>
<td>$700</td>
</tr>
<tr>
<td>Electric Vehicle Ready</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

C. A person who is a building owner may apply for a certificate of eligibility for the 2021 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building or installation of energy-conserving products in an existing building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the application is made meets the requirements of this section for .222608.7
a 2021 sustainable building tax credit, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection D of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building, a calculation of the maximum amount of 2021 sustainable building tax credit for which the building owner would be eligible, the identification number, date of issuance and the first taxable year that the credit shall be claimed.

The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, [2021] 2022, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

1. the owner of the sustainable residential building at the time the certification level for the building is awarded; or
2. the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

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

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

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

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

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

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

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

F. Installation of a solar thermal system or a photovoltaic system eligible for the new solar market development tax credit pursuant to Section [7-2-18.14] 7-2-18.31 NMSA 1978 shall not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2021 sustainable building tax credit, unless a new solar market development tax credit pursuant to Section [7-2-18.14] 7-2-18.31 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2021 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

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

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

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

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

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

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

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

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

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

N. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

(21) "sustainable commercial building" means:

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

(b) a multifamily dwelling unit that is certified as LEED-H platinum or gold or build green emerald or gold and uses at least thirty percent less energy than is required by the prescriptive path of the most current applicable energy conservation code promulgated by the construction industries division of the regulation and .222608.7
licensing department for build green gold or LEED-H, or uses at least forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green emerald or LEED platinum; or

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

(22) "sustainable residential building" means:

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

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

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

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

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

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

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

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

SECTION 6. Section 7-2A-28.1 NMSA 1978 (being Laws 2021, Chapter 84, Section 4) is amended to read:

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

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, [2030] 2028, a taxpayer that is a building owner and files a corporate income tax return is eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the
installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2021 sustainable building tax credit provided in the Income Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

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

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

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

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-NC Platinum</td>
<td>First 10,000</td>
<td>$5.25</td>
</tr>
<tr>
<td></td>
<td>Next 40,000</td>
<td>$2.25</td>
</tr>
<tr>
<td></td>
<td>Over 50,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>up to 200,000</td>
<td>$1.00</td>
</tr>
<tr>
<td>LEED-EB or CS Platinum</td>
<td>First 10,000</td>
<td>$3.40</td>
</tr>
</tbody>
</table>
LEED-CI Platinum
First 10,000 $1.50
Next 40,000 $0.40
Over 50,000
up to 200,000 $0.30

LEED-NC Gold
First 10,000 $3.00
Next 40,000 $1.00
Over 50,000
up to 200,000 $0.25

LEED-EB or -CS Gold
First 10,000 $2.00
Next 40,000 $1.00
Over 50,000
up to 200,000 $0.25

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

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Occupied Square Footage</th>
<th>Tax Credit per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>.222608.7</td>
<td>- 32 -</td>
<td></td>
</tr>
</tbody>
</table>
HTRC/HB 163

1. Fully Electric Building
   - First 50,000: $1.00
   - Over 50,000 up to 200,000: $0.50

2. Zero Carbon, Energy, Waste or Water Certified
   - First 50,000: $0.25
   - Over 50,000 up to 200,000: $0.10;

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

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

<table>
<thead>
<tr>
<th>Product</th>
<th>Affordable Housing</th>
<th>Non-Affordable Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Ground Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Windows and Doors</td>
<td>100% of product cost up to $1,000</td>
<td>50% of product cost up to $500</td>
</tr>
<tr>
<td>Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department</td>
<td>100% of product cost up to $2,000</td>
<td>50% of product cost up to $1,000</td>
</tr>
<tr>
<td>Energy Star Heat Pump Water Heater</td>
<td>$700</td>
<td>$350</td>
</tr>
<tr>
<td>Electric Vehicle Ready</td>
<td>100% of product cost up to $3,000</td>
<td>50% of product cost up to $1,500;</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Rating Level</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEED-H Platinum</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>LEED-H Gold</td>
<td>Up to 2,000</td>
<td>$3.80</td>
</tr>
<tr>
<td>Build Green Emerald</td>
<td>Up to 2,000</td>
<td>$5.50</td>
</tr>
<tr>
<td>Build Green Gold</td>
<td>Up to 2,000</td>
<td>$3.80</td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Up to 2,000</td>
<td>$2.00; and</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Additional Criteria</th>
<th>Qualified Occupied per Square Footage</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully Electric Building</td>
<td>Up to 2,000</td>
<td>$1.00</td>
</tr>
<tr>
<td>Zero Carbon, Energy,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waste or Water Certified</td>
<td>Up to 2,000</td>
<td>$0.25; and</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Product</th>
<th>Affordable</th>
<th>Non-Affordable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Star Air</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Ground</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Source Heat Pump</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Windows and Doors</td>
<td>100% of product</td>
<td>50% of product</td>
</tr>
<tr>
<td></td>
<td>cost up to</td>
<td>cost up to</td>
</tr>
<tr>
<td></td>
<td>$1,000</td>
<td>$500</td>
</tr>
<tr>
<td>Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department</td>
<td>100% of product</td>
<td>50% of product</td>
</tr>
<tr>
<td></td>
<td>cost up to</td>
<td>cost up to</td>
</tr>
<tr>
<td></td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Energy Star Heat Pump Water Heater</td>
<td>$700</td>
<td>$350</td>
</tr>
</tbody>
</table>
Electric Vehicle Ready $1,000

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

Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the application is made meets the requirements of this section for a 2021 sustainable building tax credit, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection D of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building, a calculation of the maximum amount of 2021 sustainable building tax credit for which the building owner would be eligible, the identification number, date of issuance and the first taxable year that the credit shall be claimed.

The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the...
sustainable residential building is awarded on or after January 1, 2022, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner that is:

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

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

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

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

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

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

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

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

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

F. Installation of a solar thermal system or a photovoltaic system eligible for the new solar market development tax credit pursuant to Section (7-2-18.14)
7-2-18.31 NMSA 1978 shall not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2021 sustainable building tax credit, unless a new solar market development tax credit pursuant to Section [7-2-18.14] 7-2-18.31 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2021 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

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

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

(1) less than one hundred thousand dollars ($100,000), a maximum of twenty-five thousand dollars ($25,000) shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or
(2) one hundred thousand dollars ($100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's corporate income tax liability.

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

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

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

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

M. For the purposes of this section:

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

(2) "build green emerald" means the emerald level certification standard adopted by build green New Mexico, which includes water conservation standards and uses forty .222608.7
percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

(21) "sustainable commercial building" means:

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

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

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

(22) "sustainable residential building" means:

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

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

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

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

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

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

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

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

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

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

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

    B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an
employee of the department exercising authority lawfully

deleated to that employee by the secretary;

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

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

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

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

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

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

   (3) review of preliminary drafts, drawings and
other materials prepared by the performer of services;
(4) inspection of preliminary prototypes
developed by the performer of services; or

(5) similar activities;

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

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

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

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

[J] K. "manufacturing" means combining or processing
components or materials to increase their value for sale in the
ordinary course of business, but does not include construction
services; farming; electric power generation; processing of

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natural resources, including hydrocarbons; or the processing or
preparation of meals for immediate consumption;

[K-] L. "manufacturing service" means the service of
combining or processing components or materials owned by
another, but does not include construction services; farming;
electric power generation; processing of natural resources,
including hydrocarbons; or the processing or preparation of
meals for immediate consumption;

[L-] M. "marketplace provider" means a person who
facilitates the sale, lease or license of tangible personal
property or services or licenses for use of real property on a
marketplace seller's behalf, or on the marketplace provider's
own behalf, by:

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

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

[M-] N. "marketplace seller" means a person who
sells, leases or licenses tangible personal property or
services or who licenses the use of real property through a
marketplace provider;

[N. O.]

"person" means:

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

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

[O. P.]

"property" means:

(1) real property;

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

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

(4) franchises;

[P. Q.]

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

(1) advancing basic knowledge in a recognized
1 field of natural science;
2
3    (2) advancing technology in a field of technical endeavor;
4
5    (3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;
6
7    (4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;
8
9    (5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or
10
11    (6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;
12
13 [Q.] R. "secretary" means the secretary of taxation and revenue or the secretary's delegate;
14
15 [R.] S. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished
from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

[S. T.] "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

SECTION 8. Section 7-9-4 NMSA 1978 (being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

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

A. For the privilege of engaging in business, an excise tax equal to [five and one-eighth] four and seven-eighths percent, except as provided in Subsection C of this section, of gross receipts is imposed on any person engaging in
business in New Mexico.

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

C. If, for any single fiscal year occurring after fiscal year 2023 and prior to fiscal year 2028, gross receipts tax revenues are less than ninety-five percent of the gross receipts tax revenues for the previous fiscal year, as determined by the secretary of finance and administration, the rate of the gross receipts tax shall be five and one-eighth percent beginning on the July 1 following the determination made by the secretary of finance and administration.

D. On or before February 1 of each year, until the rate of the gross receipts tax is adjusted to five and one-eighth percent pursuant to Subsection C of this section, the secretary of finance and administration shall make a determination for the purposes of Subsection C of this section. If the rate of tax is adjusted pursuant to that subsection, the secretary shall certify to the secretary of taxation and revenue that the rate of the gross receipts tax shall be five and one-eighth percent, effective on the following July 1.

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

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

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

A. For the privilege of making taxable use of tangible personal property in New Mexico, there is imposed on the person using the property an excise tax equal to [five and one-eighth] four and seven-eighths percent, except as provided in Subsection G of this section, of the value of tangible property that was:

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

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

B. For the purpose of Subsection A of this section, value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion of the property to taxable use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of making taxable use of a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A or G of this section, as applicable, against the value of the license or franchise in .222608.7
its use in this state. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. The tax shall apply only to the value of a license or franchise used in New Mexico where the license or franchise was acquired in a transaction the receipts from which were not subject to the gross receipts tax.

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

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

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

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

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

SECTION 10. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--SALES OF SERVICES TO MANUFACTURERS.--

A. Receipts from selling professional services may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The professional services shall be related to the product that the buyer is in the business of manufacturing.

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

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

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

E. As used in this section:

(1) "accounting services" means the systematic and comprehensive recording of financial transactions pertaining to a business entity and the process of summarizing, analyzing and reporting these transactions to oversight agencies or tax collection entities, including certified public auditing, attest services and preparing financial statements, bookkeeping, tax return preparation, advice and consulting and, where applicable, representing taxpayers before tax collection agencies. "Accounting services" does not include, except as provided with respect to financial management services, investment advice, wealth management advice or consulting or any tax return preparation, advice, counseling or
representation for individuals, regardless of whether those
dividuals are owners of pass-through entities, such as
partnerships, limited liability companies or S corporations;

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

(3) "engineering services" means consultation,
the production of a creative work, investigation, evaluation,
planning and design, the performance of studies and reviewing
planning documents when performed by, or under the supervision
of, a licensed engineer, including the design, development and
testing of mechanical, electrical, hydraulic, chemical,
pneumatic or thermal machinery or equipment, industrial or
commercial work systems or processes and military equipment.
"Engineering services" does not include medical or medical
laboratory services, any engineering performed in connection
with a construction service or the design and installation of
computer or computer network infrastructure;

(4) "information technology services" means
separately stated services for installing and maintaining a
business's computers and computer network, including performing
computer network design; installing, repairing, maintaining or
restoring computer networks, hardware or software; and
performing custom software programming or making custom
modifications to existing software programming. "Information
technology services" does not include:

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

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

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

(d) access to telecommunications or
internet;

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

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

SECTION 11. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS--FEMININE HYGIENE PRODUCTS.--

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

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

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the report to the revenue stabilization and tax policy committee and the legislative
finance committee with an analysis of the cost of the
deduction.

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

SECTION 12. APPLICABILITY.--

A. The provisions of Section 3 of this act apply to
taxable years beginning on or after January 1, 2022.

B. The provisions of Section 4 of this act apply to
the purchase and installation of a solar thermal system or a
photovoltaic system in taxable years beginning on or after
January 1, 2022.

SECTION 13. EFFECTIVE DATE.--The effective date of the
provisions of Sections 7 through 11 of this act is July 1,
2022.

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