

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 163

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

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

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

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

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

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

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

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

20 C. To receive a tax credit provided by this
21 section, a taxpayer shall apply to the department on forms and
22 in the manner prescribed by the department. The application
23 shall include a certification by the hospital for which the
24 taxpayer was employed in 2022 that the taxpayer was employed
25 full time throughout 2022 as a nurse by the hospital.

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

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

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

15 G. As used in this section:

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

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

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

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

25 "NEW MATERIAL] CHILD INCOME TAX CREDIT.--

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1 A. For taxable years beginning January 1, 2022 and
 2 prior to January 1, 2027, a taxpayer who is a resident and is
 3 not a dependent of another individual may apply for, and the
 4 department may allow, a credit against the taxpayer's tax
 5 liability imposed pursuant to the Income Tax Act for each
 6 qualifying child of the taxpayer. The tax credit provided by
 7 this section may be referred to as the "child income tax
 8 credit".

9 B. The child income tax credit may be claimed as
 10 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
200,000	350,000	50
350,000		25.

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

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

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1 prescribed by the department.

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

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

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

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

21 I. As used in this section, "qualifying child"
22 means "qualifying child" as defined by Section 152(c) of the
23 Internal Revenue Code, as that section may be amended or
24 renumbered, but includes any minor child or stepchild of the
25 taxpayer who would be a qualifying child for federal income tax

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1 purposes if the public assistance contributing to the support
2 of the child or stepchild was considered to have been
3 contributed by the taxpayer."

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

6 "[NEW MATERIAL] EXEMPTION--SOCIAL SECURITY INCOME.--An
7 individual may claim an exemption in an amount equal to the
8 amount included in adjusted gross income pursuant to Section 86
9 of the 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 4. Section 7-2-18.31 NMSA 1978 (being Laws 2020,
21 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, [2028]
25 2032, a taxpayer who is not a dependent of another individual

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1 and 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 that
4 taxpayer, may apply for, and the department may allow, a credit
5 against the taxpayer's tax liability imposed pursuant to the
6 Income Tax Act in an amount provided in Subsection C of this
7 section. The tax credit provided by this section may be
8 referred to as the "new solar market development income tax
9 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 and
13 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

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

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

10 G. That portion of a new solar market development
11 income tax credit that exceeds a taxpayer's tax liability in
12 the taxable year in which the credit is claimed [~~may be carried~~
13 ~~forward for a maximum of five consecutive taxable years~~] shall
14 be 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 a
19 joint return.

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

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

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

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

16 L. As used in this section:

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

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

24 SECTION 5. Section 7-2-18.32 NMSA 1978 (being Laws 2021,
25 Chapter 84, Section 2) is amended to read:

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1 "7-2-18.32. 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". For
4 taxable years prior to January 1, [~~2030~~] 2028, a taxpayer who
5 is a building owner and files an income tax return is eligible
6 to be granted a 2021 sustainable building tax credit by the
7 department if the requirements of this section are met. The
8 2021 sustainable building tax credit shall be available for the
9 construction in New Mexico of a sustainable building, the
10 renovation of an existing building in New Mexico, the permanent
11 installation of manufactured housing, regardless of where the
12 housing is manufactured, that is a sustainable building or the
13 installation of energy-conserving products to existing
14 buildings in New Mexico, as provided in this section. The tax
15 credit provided in this section may not be claimed with respect
16 to the same sustainable building for which the 2021 sustainable
17 building tax credit provided in the Corporate Income and
18 Franchise Tax Act or the 2015 sustainable building tax credit
19 pursuant to the Income Tax Act or the Corporate Income and
20 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 [~~April 1, 2023~~]

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1 January 1, 2022, 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 indicated
5 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

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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

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

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

(2) for the renovation of a commercial 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

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

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

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to	50% of product cost up to

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

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

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

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-H Platinum	Up to 2,000	\$5.50
LEED-H Gold	Up to 2,000	\$3.80

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

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

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

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

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

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1	Source Heat Pump	\$2,000	\$1,000
2	Energy Star		
3	Windows and Doors	100% of	50% of product
4		product cost	cost up to
5		up to \$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	\$1,000	\$500.

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

21 Applications shall be considered in the order received. If the
 22 energy, minerals and natural resources department determines
 23 that the building owner meets the requirements of this
 24 subsection and that the building with respect to which the
 25 application is made meets the requirements of this section for

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

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

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

24 D. Except as provided in Subsection E of this
25 section, the energy, minerals and natural resources department

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

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

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

13 (3) two hundred fifty thousand dollars
14 (\$250,000) with respect to the construction of new sustainable
15 residential buildings that are manufactured housing;

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

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

24 E. For any taxable year that the energy, minerals
25 and natural resources department determines that applications

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

11 F. Installation of a solar thermal system or a
12 photovoltaic system eligible for the new solar market
13 development tax credit pursuant to Section [~~7-2-18.14~~]
14 7-2-18.31 NMSA 1978 shall not be used as a component of
15 qualification for the rating system certification level used in
16 determining eligibility for the 2021 sustainable building tax
17 credit, unless a new solar market development tax credit
18 pursuant to Section [~~7-2-18.14~~] 7-2-18.31 NMSA 1978 has not
19 been claimed with respect to that system and the building owner
20 and the taxpayer claiming the 2021 sustainable building tax
21 credit certify that such a tax credit will not be claimed with
22 respect to that system.

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

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

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

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

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

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

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1 low-income taxpayer, the excess shall be refunded to the
2 taxpayer.

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

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

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

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1 to another taxpayer. The parties to such a transaction shall
2 notify the department of the sale, exchange or transfer within
3 ten days of the sale, exchange or transfer.

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

14 N. For the purposes of this section:

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

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

25 (3) "build green gold" means the gold level

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

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

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

24 (6) "Energy Star" means products and devices
25 certified under the energy star program administered by the

1 United States environmental protection agency and United States
2 department of energy that meet the specified performance
3 requirements at the installed locations;

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

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

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

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

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

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

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

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1 homes;

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

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

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

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

14 (a) a manufactured home or modular home;

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

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

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

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1 relating to permanent foundations;

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

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

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

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

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

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

16 (21) "sustainable commercial building" means:

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

20 (b) a multifamily dwelling unit that is
21 certified as LEED-H platinum or gold or build green emerald or
22 gold and 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

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1 licensing department for build green gold or LEED-H, or uses at
2 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 related
10 to commissioning under the LEED energy and atmosphere category,
11 if included in the applicable rating system; and 3) has reduced
12 energy consumption beginning January 1, 2012 by forty percent
13 based on the national average for that building type as
14 published by the United States department of energy as
15 substantiated by the United States environmental protection
16 agency target finder energy performance results form, dated no
17 sooner than the schematic design phase of development;

18 (22) "sustainable residential building" means:

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

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

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

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

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

24 (25) "zero carbon certified" means a building
25 that is certified as LEED zero carbon by achieving a carbon-

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1 dioxide-equivalent balance of zero for the building;

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

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

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

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

14 "7-2A-28.1. 2021 SUSTAINABLE BUILDING TAX CREDIT.--

15 A. The tax credit provided by this section may be
16 referred to as the "2021 sustainable building tax credit". For
17 taxable years prior to January 1, [~~2030~~] 2028, a taxpayer that
18 is a building owner and files a corporate income tax return is
19 eligible to be granted a 2021 sustainable building tax credit
20 by the department if the requirements of this section are met.
21 The 2021 sustainable building tax credit shall be available for
22 the construction in New Mexico of a sustainable building, the
23 renovation of an existing building in New Mexico, the permanent
24 installation of manufactured housing, regardless of where the
25 housing is manufactured, that is a sustainable building or the

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1 installation of energy-conserving products to existing
 2 buildings in New Mexico, as provided in this section. The tax
 3 credit provided in this section may not be claimed with respect
 4 to the same sustainable building for which the 2021 sustainable
 5 building tax credit provided in the Income Tax Act or the 2015
 6 sustainable building tax credit pursuant to the Income Tax Act
 7 or the Corporate Income and Franchise Tax Act has been claimed.

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

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

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

Rating Level	Qualified	Tax Credit
	Occupied	per Square
	Square Footage	Foot
LEED-NC Platinum	First 10,000	\$5.25
	Next 40,000	\$2.25
	Over 50,000	
	up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40

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1		Next 40,000	\$1.30
2		Over 50,000	
3		up to 200,000	\$0.35
4	LEED-CI Platinum	First 10,000	\$1.50
5		Next 40,000	\$0.40
6		Over 50,000	
7		up to 200,000	\$0.30
8	LEED-NC Gold	First 10,000	\$3.00
9		Next 40,000	\$1.00
10		Over 50,000	
11		up to 200,000	\$0.25
12	LEED-EB or -CS Gold	First 10,000	\$2.00
13		Next 40,000	\$1.00
14		Over 50,000	
15		up to 200,000	\$0.25
16	LEED-CI Gold	First 10,000	\$0.90
17		Next 40,000	\$0.40
18		Over 50,000	
19		up to 200,000	\$0.10; and
20		(b) with additional amounts based on the	
21		additional criteria and the amount of qualified occupied square	
22		footage, as indicated in the following chart:	
23	Additional Criteria	Qualified	Tax Credit
24		Occupied	per Square
25		Square Footage	Foot

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1	Fully Electric Building	First 50,000	\$1.00
2		Over 50,000	
3		up to 200,000	\$0.50
4	Zero Carbon, Energy,		
5	Waste or Water Certified	First 50,000	\$0.25
6		Over 50,000	
7		up to 200,000	\$0.10;

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

21 (3) for the installation of the following
22 energy-conserving products to an existing commercial building
23 with less than twenty thousand square feet of space in which
24 temperature is controlled that is broadband ready, the amount
25 of credit shall be based on the cost of the product installed,

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1 which shall include installation costs, and if the building is
 2 affordable housing, per product installed:

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

25 (4) for the construction of a new sustainable

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1 residential building that is broadband ready and electric
 2 vehicle ready and is completed on or after [~~April 1, 2023~~]
 3 January 1, 2022, the amount of credit shall be calculated:

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

8 Rating Level	9 Qualified Occupied	10 Tax Credit per Square Foot
11 LEED-H Platinum	Up to 2,000	\$5.50
12 LEED-H Gold	Up to 2,000	\$3.80
13 Build Green Emerald	Up to 2,000	\$5.50
14 Build Green Gold	Up to 2,000	\$3.80
15 Manufactured Housing	Up to 2,000	\$2.00; and

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

19 Additional Criteria	20 Qualified Occupied	21 Tax Credit per Square Foot
22 Fully Electric Building	Up to 2,000	\$1.00
23 Zero Carbon, Energy, 24 Waste or Water Certified	Up to 2,000	\$0.25; and

25 (5) for the installation of the following

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underscoring material = new
 [bracketed material] = delete

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

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

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1 Electric Vehicle Ready \$1,000 \$500.

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

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

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1 sustainable residential building is awarded on or after January
2 1, [2021] 2022, the energy, minerals and natural resources
3 department may issue a certificate of eligibility to a building
4 owner [~~who~~] that is:

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

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

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

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

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

25 (3) two hundred fifty thousand dollars

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1 (\$250,000) with respect to the construction of new sustainable
2 residential buildings that are manufactured housing;

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

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

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

23 F. Installation of a solar thermal system or a
24 photovoltaic system eligible for the new solar market
25 development tax credit pursuant to Section [~~7-2-18.14~~]

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1 7-2-18.31 NMSA 1978 shall not be used as a component of
2 qualification for the rating system certification level used in
3 determining eligibility for the 2021 sustainable building tax
4 credit, unless a new solar market development tax credit
5 pursuant to Section [~~7-2-18.14~~] 7-2-18.31 NMSA 1978 has not
6 been claimed with respect to that system and the building owner
7 and the taxpayer claiming the 2021 sustainable building tax
8 credit certify that such a tax credit will not be claimed with
9 respect to that system.

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

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

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

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

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

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

23 K. If the requirements of this section have been
24 complied with, the department shall issue to the building owner
25 a document granting a 2021 sustainable building tax credit.

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1 The document shall be numbered for identification and declare
2 its date of issuance and the amount of the tax credit allowed
3 pursuant to this section. The document may be submitted by the
4 building owner with that taxpayer's income tax return, if
5 applicable, or may be sold, exchanged or otherwise transferred
6 to another taxpayer. The parties to such a transaction shall
7 notify the department of the sale, exchange or transfer within
8 ten days of the sale, exchange or transfer.

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

19 M. For the purposes of this section:

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

23 (2) "build green emerald" means the emerald
24 level certification standard adopted by build green New Mexico,
25 which includes water conservation standards and uses forty

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

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

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

21 (5) "energy rating system index" means a
22 numerical score given to a building where one hundred is
23 equivalent to the 2006 international energy conservation code
24 and zero is equivalent to a net-zero home. As used in this
25 paragraph, "net-zero home" means an energy-efficient home

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1 where, on a source energy basis, the actual annual delivered
2 energy is less than or equal to the on-site renewable exported
3 energy;

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

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

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

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

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

25 (11) "LEED-EB" means the LEED rating system for

1 existing buildings;

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

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

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

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

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

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

19 (a) a manufactured home or modular home;

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

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

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

1 Safety Standards Act of 1974 and the Housing and Urban
2 Development Zone Code 2 or New Mexico construction codes up to
3 the date of the unit's construction; and

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

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

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

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

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

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

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

21 (21) "sustainable commercial building" means:

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

24 (b) a multifamily dwelling unit that is
25 certified as LEED-H platinum or gold or build green emerald or

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

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

22 (22) "sustainable residential building" means:

23 (a) a building used as a single-family
24 residence that: 1) is certified as LEED-H platinum or gold or
25 build green emerald or gold; 2) uses at least thirty percent

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

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

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

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

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1 criteria for efficiency and performance;

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

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

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

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

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

19 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
20 Compensating Tax Act:

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

24 B. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or an

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

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

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

12 [~~D.~~] E. "financial corporation" means a savings and
13 loan association or an incorporated savings and loan company,
14 trust company, mortgage banking company, consumer finance
15 company or other financial corporation;

16 [~~E.~~] F. "initial use" or "initially used" means the
17 first employment for the intended purpose and does not include
18 the following activities:

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

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

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

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1 (4) inspection of preliminary prototypes
2 developed by the performer of services; or

3 (5) similar activities;

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

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

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

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

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

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

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

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

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

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

24 ~~[M.]~~ N. "marketplace seller" means a person who
25 sells, leases or licenses tangible personal property or

1 services or who licenses the use of real property through a
2 marketplace provider;

3 ~~[N.]~~ O. "person" means:

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

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

14 ~~[O.]~~ P. "property" means:

15 (1) real property;
16 (2) tangible personal property, including
17 electricity and manufactured homes;
18 (3) licenses, including licenses of digital
19 goods, but not including the licenses of copyrights, trademarks
20 or patents; and
21 (4) franchises;

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

25 (1) advancing basic knowledge in a recognized

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1 field of natural science;

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

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

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

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

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

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

23 [R-] 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

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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 a
 8 construction project. That tangible personal property retains
 9 its character as tangible personal property until it is
 10 installed as an ingredient or component part of a construction
 11 project in New Mexico. Sales of tangible personal property
 12 that will become an ingredient or component part of a
 13 construction project to persons engaged in the construction
 14 business are sales of tangible personal property; and

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

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

20 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
 21 "GROSS RECEIPTS TAX".--

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

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1 business in New Mexico.

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

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

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

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

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

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1 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
2 "COMPENSATING TAX".--

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

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

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

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

21 C. For the privilege of making taxable use of a
22 license or franchise in New Mexico, there is imposed on the
23 person using the license or franchise an excise tax equal to
24 the rate provided in Subsection A or G of this section, as
25 applicable, against the value of the license or franchise in

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1 its use in this state. The department by rule, ruling or
2 instruction shall fairly apportion, where appropriate, the
3 value of a license or franchise to its value in use in New
4 Mexico. The tax shall apply only to the value of a license or
5 franchise used in New Mexico where the license or franchise was
6 acquired in a transaction the receipts from which were not
7 subject to the gross receipts tax.

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

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

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

24 G. If the gross receipts tax is increased to five and
25 one-eighth percent pursuant to Section 7-9-4 NMSA 1978, the

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1 rate of the compensating tax shall be five and one-eighth
2 percent.

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

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

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

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

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

25 C. A taxpayer allowed a deduction pursuant to this
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underscored material = new
~~[bracketed material] = delete~~

1 section shall report the amount of the deduction separately in
2 a manner required by the department.

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

13 E. As used in this section:

14 (1) "accounting services" means the systematic
15 and comprehensive recording of financial transactions
16 pertaining to a business entity and the process of summarizing,
17 analyzing and reporting these transactions to oversight
18 agencies or tax collection entities, including certified public
19 auditing, attest services and preparing financial statements,
20 bookkeeping, tax return preparation, advice and consulting and,
21 where applicable, representing taxpayers before tax collection
22 agencies. "Accounting services" does not include, except as
23 provided with respect to financial management services,
24 investment advice, wealth management advice or consulting or
25 any tax return preparation, advice, counseling or

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1 representation for individuals, regardless of whether those
2 individuals are owners of pass-through entities, such as
3 partnerships, limited liability companies or S corporations;

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

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

22 (4) "information technology services" means
23 separately stated services for installing and maintaining a
24 business's computers and computer network, including performing
25 computer network design; installing, repairing, maintaining or

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1 restoring computer networks, hardware or software; and
2 performing custom software programming or making custom
3 modifications to existing software programming. "Information
4 technology services" does not include:

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

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

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

14 (d) access to telecommunications or
15 internet;

16 (5) "legal services" means services performed by
17 a licensed attorney or under the supervision of a licensed
18 attorney for a client, regardless of the attorney's form of
19 business entity or whether the services are prepaid, including
20 legal representation before courts or administrative agencies;
21 drafting legal documents, such as contracts or patent
22 applications; legal research; advising and counseling;
23 arbitration; mediation; and notary public and other ancillary
24 legal services performed for a client in conjunction with and
25 under the supervision of a licensed attorney. "Legal services"

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1 does not include lobbying or government relations services,
2 title insurance agent services, licensing or selling legal
3 software or legal document templates, insurance investigation
4 services or any legal representation involving financial crimes
5 or tax evasion in New Mexico; and

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

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

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

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

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

19 C. The department shall compile an annual report on
20 the deduction provided by this section that shall include the
21 number of taxpayers that claimed the deduction, the aggregate
22 amount of deductions claimed and any other information
23 necessary to evaluate the effectiveness of the deduction. The
24 department shall present the report to the revenue
25 stabilization and tax policy committee and the legislative

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1 finance committee with an analysis of the cost of the
2 deduction.

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

6 SECTION 12. APPLICABILITY.--

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

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

13 SECTION 13. EFFECTIVE DATE.--The effective date of the
14 provisions of Sections 7 through 11 of this act is July 1,
15 2022.

underscored material = new
[bracketed material] = delete