

FIFTY-FIFTH LEGISLATURE  
SECOND SESSION

February 16, 2022

SENATE FLOOR AMENDMENT number   1   to HOUSE TAXATION AND REVENUE  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 163, as amended

Amendment sponsored by Senator Wirth

1. Strike Senate Finance Committee Amendments 2 and 3.

2. On page 1, line 11, after the semicolon, strike the remainder of the line, strike lines 12 through 25 in their entirety, on page 2, strike lines 1 through 5 in their entirety and insert in lieu thereof "ALLOWING CERTAIN MUNICIPALITIES TO RETAIN A CERTAIN PERCENTAGE OF THE HOLD HARMLESS DISTRIBUTION TO OFFSET GROSS RECEIPTS DEDUCTIONS FOR FOOD AND HEALTH CARE PRACTITIONER SERVICES; CLARIFYING THAT CERTAIN OTHER MUNICIPALITIES AND COUNTIES ARE EXEMPT FROM THE PHASE-OUT OF THAT DISTRIBUTION IF THEY DID NOT HAVE A HOLD HARMLESS GROSS RECEIPTS TAX IN EFFECT ON JUNE 30, 2019; CREATING A 2022 INCOME TAX CREDIT FOR NURSES EMPLOYED BY HOSPITALS IN NEW MEXICO; CREATING A 2021 INCOME TAX REBATE; CREATING A TEMPORARY CHILD INCOME TAX CREDIT; PROVIDING A TEMPORARY INCOME TAX EXEMPTION FOR MILITARY RETIREMENT PAY; 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

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DEDUCTIONS FOR FEMININE HYGIENE PRODUCTS."

3. On pages 2 through 64, strike Sections 1 through 13 in their entirety and insert in lieu thereof the following new sections:

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

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

A. For a municipality that [~~has not elected to impose~~] did not have in effect on June 30, 2019 a municipal hold harmless gross receipts tax through an ordinance and that has a population of less than ten thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [~~a~~] the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [~~sum of:~~

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and~~

~~(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent]~~ applicable maximum distribution for the municipality.

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B. For a municipality that did not have in effect on June 30, 2019 a municipal hold harmless gross receipts tax through an ordinance and has a population of at least ten thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the following percentages of the applicable maximum distribution for the municipality:

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

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

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

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

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

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

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

~~[B.]~~ C. For a municipality not described in Subsection A or B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the ~~[sum of:~~

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~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

~~(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

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~~(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and~~

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

~~(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in] applicable maximum distribution for the municipality multiplied by the following percentages:~~

~~[(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1,~~

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~~2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

~~(i)] (1) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;~~

~~[(j)] (2) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~[(k)] (3) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~[(l)] (4) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~[(m)] (5) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~[(n)] (6) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; [and~~

~~(o)] (7) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and~~

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

~~[G.—The] D. A distribution pursuant to [Subsections A and B of] this section is in lieu of revenue that would have been~~

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received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. ~~[A distribution pursuant to this section to a municipality not described in Subsection A of this section or to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.~~

~~D.]~~ E. If the ~~[reductions]~~ changes made by this ~~[2013]~~ 2022 act to the distributions made pursuant to ~~[Subsections A and B of]~~ this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, ~~[2013]~~ 2022 and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on June 30, ~~[2013]~~ 2022.

~~[E.]~~ F. For the purposes of this section:

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

~~[(+1)]~~ (a) within the municipality;

~~[(+2)]~~ (b) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;

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~~[(3)]~~ (c) outside the boundaries of the municipality on land owned by the municipality; and

~~[(4)]~~ (d) on an Indian reservation or pueblo grant in an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if: ~~[(a)]~~ 1) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and ~~[(b)]~~ 2) the governing body of the municipality has submitted a copy of the contract to the secretary;

(2) "maximum distribution" means:

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

(b) for a municipality not described in Subparagraph (a) of this paragraph, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent; and

(3) "poverty level" means the percentage of persons in poverty, according to the most recent five-year American



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community survey, as published by the United States census bureau. For the purposes of determining the poverty level of a municipality, "poverty level" means the percentage of persons in poverty in a municipality, according to the most recent five-year American community survey, as published by the United States census bureau, that includes adequate data to make a determination as to the poverty level of the municipality.

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

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

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

A. For a county that [~~has not elected to impose~~] did not have in effect on June 30, 2019 a county hold harmless gross receipts tax through an ordinance and that has a population of less than forty-eight thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [~~a~~] the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [~~sum of:~~

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;~~

~~(2) the total deductions claimed pursuant to Section~~

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~~7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;~~

~~(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and~~

~~(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality] applicable maximum distribution for the county.~~

B. For a county not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the ~~[sum of:~~

~~(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

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~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

~~(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and~~

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

~~(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

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~~(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and~~

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

~~(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

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~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

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

~~(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and~~

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

~~(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the~~

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~~combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in] applicable maximum distribution multiplied by the following percentages:~~

~~[(a) prior to July 1, 2015, one hundred percent;~~

~~(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

~~(h)] (1) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;~~

~~[(i)] (2) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;~~

~~[(j)] (3) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~[(k)] (4) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

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~~[(1)]~~ (5) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

~~[(m)]~~ (6) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

~~[(n)]~~ (7) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; ~~[and~~

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

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

C. ~~[The]~~ A distribution pursuant to ~~[Subsections A and B of]~~ this section is in lieu of revenue that would have been received by the county but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the county in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. ~~[A distribution pursuant to this section to a county not described in Subsection A of this section or to a county that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.]~~

D. If the ~~[reductions]~~ changes made by this ~~[2013]~~ 2022 act to the distributions made pursuant to ~~[Subsections A and B of]~~ this section impair the ability of a county to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, ~~[2013]~~ 2022 and that are secured by the pledge of all or part of the county's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that county shall be increased by an amount sufficient to meet the required payment; provided that the total



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amount distributed to that county pursuant to this section does not exceed the amount that would have been due that county pursuant to this section as it was in effect on June 30, ~~2013~~ 2022.

E. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a county pursuant to the Tax Increment for Development Act.

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

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

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

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

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

(a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by

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the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county; and

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

SECTION 3. 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

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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 4.** A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] 2021 INCOME TAX REBATE.--

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

(1) five hundred dollars (\$500) for heads of

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household, surviving spouses and married individuals filing joint returns with adjusted gross income of less than one hundred fifty thousand dollars (\$150,000); and

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

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

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

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

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

**SECTION 5.** 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, 2023 and prior to January 1, 2032, 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".

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

| Adjusted gross income is |              | Amount of credit per<br>qualifying child is |
|--------------------------|--------------|---------------------------------------------|
| Over                     | But not over |                                             |
| \$ 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.                                         |

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

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

"[NEW MATERIAL] EXEMPTION--ARMED FORCES RETIREMENT PAY.--

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

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

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

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

B. As used in this section, "armed forces retiree" means a former member of the armed forces of the United States who has qualified by years of service or disability to separate from

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military service with lifetime benefits."

**SECTION 7.** 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 8.** 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

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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



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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 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

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

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

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, [~~2030~~] 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

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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:

| Rating Level           | Qualified Occupied Square Footage | Tax Credit per Square 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                     |
|                        | Next 40,000                       | \$1.30                     |
|                        | Over 50,000 up to 200,000         | \$0.35                     |

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|                     |               |             |
|---------------------|---------------|-------------|
| LEED-CI Platinum    | First 10,000  | \$1.50      |
|                     | Next 40,000   | \$0.40      |
|                     | Over 50,000   |             |
| LEED-NC Gold        | up to 200,000 | \$0.30      |
|                     | First 10,000  | \$3.00      |
|                     | Next 40,000   | \$1.00      |
| LEED-EB or -CS Gold | Over 50,000   |             |
|                     | up to 200,000 | \$0.25      |
|                     | First 10,000  | \$2.00      |
| LEED-CI Gold        | Next 40,000   | \$1.00      |
|                     | Over 50,000   |             |
|                     | up to 200,000 | \$0.25      |
|                     | 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:

| 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

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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:

| 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 \$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                                                                      |                                    |                                   |

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|                        |                                          |                                          |
|------------------------|------------------------------------------|------------------------------------------|
| Heater                 | \$700                                    | \$350                                    |
| Electric Vehicle Ready | 100% of product<br>cost up to<br>\$3,000 | 50% of product<br>cost up to<br>\$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<br>Occupied<br>Square Footage | Tax Credit<br>per Square<br>Foot |
|----------------------|-----------------------------------------|----------------------------------|
| LEED-H Platinum      | Up to 2,000                             | \$5.50                           |
| LEED-H Gold          | Up to 2,000                             | \$3.80                           |
| 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:

| Additional Criteria                                                         | Qualified<br>Occupied<br>Square Footage | Tax Credit<br>per Square<br>Foot |
|-----------------------------------------------------------------------------|-----------------------------------------|----------------------------------|
| Fully Electric Building<br>Zero Carbon, Energy,<br>Waste or Water Certified | Up to 2,000                             | \$1.00                           |
|                                                                             | Up to 2,000                             | \$0.25; and                      |

(5) for the installation of the following energy-

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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:

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

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

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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, [~~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



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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

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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;

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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

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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"

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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;

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(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:

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(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

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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



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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 10.** 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

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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:

| Rating Level           | Qualified Occupied Square Footage | Tax Credit per Square Foot |
|------------------------|-----------------------------------|----------------------------|
| LEED-NC Platinum       | First 10,000                      | \$5.25                     |
|                        | Next 40,000                       | \$2.25                     |
|                        | Over 50,000                       |                            |
| LEED-EB or CS Platinum | up to 200,000                     | \$1.00                     |
|                        | First 10,000                      | \$3.40                     |
|                        | Next 40,000                       | \$1.30                     |
| LEED-CI Platinum       | Over 50,000                       |                            |
|                        | up to 200,000                     | \$0.35                     |
|                        | First 10,000                      | \$1.50                     |

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|                     |               |             |
|---------------------|---------------|-------------|
|                     | 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:

| 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 calculated by

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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:

| 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 \$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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|                        |                                          |                                          |
|------------------------|------------------------------------------|------------------------------------------|
| Electric Vehicle Ready | 100% of product<br>cost up to<br>\$3,000 | 50% of product<br>cost up to<br>\$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<br>Occupied<br>Square Footage | Tax Credit<br>per Square<br>Foot |
|----------------------|-----------------------------------------|----------------------------------|
| LEED-H Platinum      | Up to 2,000                             | \$5.50                           |
| LEED-H Gold          | Up to 2,000                             | \$3.80                           |
| 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:

| Additional Criteria                                                         | Qualified<br>Occupied<br>Square Footage | Tax Credit<br>per Square<br>Foot |
|-----------------------------------------------------------------------------|-----------------------------------------|----------------------------------|
| Fully Electric Building<br>Zero Carbon, Energy,<br>Waste or Water Certified | Up to 2,000                             | \$1.00                           |
|                                                                             | Up to 2,000                             | \$0.25; and                      |

(5) for the installation of the following energy-conserving products to an existing residential building, the amount

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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:

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

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

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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, [~~2021~~] 2022, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner [~~who~~] 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;

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(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



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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.

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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;

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(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 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;

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(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

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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;

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(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;

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(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;

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(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 11.** 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 delegated 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



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knowledge that the agent receives money on behalf of the principal;

~~[D.]~~ 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;

~~[E.]~~ 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

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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;

[~~H.~~] 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 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

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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:

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

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

(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;

(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;

(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

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

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

[~~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

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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 12.** 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 percent]~~ the following percentages of gross receipts is imposed on any person engaging in business in New Mexico:

(1) prior to July 1, 2023, five percent; and

(2) beginning July 1, 2023, four and seven-eighths percent, except as provided in Subsection C of this section.

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 2025 and prior to fiscal year 2030, gross receipts tax revenues are less than ninety-five percent of the gross receipts tax revenues

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

"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~~] percent prior to July 1, 2023 and four and seven-eighths percent beginning July 1, 2023, 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

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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 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.

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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 Subsection C of 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 14.** 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



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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 individuals 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

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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

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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 15.** 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

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the deduction.

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

**SECTION 16. APPLICABILITY.--**

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

B. The provisions of Section 8 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 17. EFFECTIVE DATE.--**The effective date of the provisions of Sections 1, 2, 4 and 11 through 15 of this act is July 1, 2022."

\_\_\_\_\_  
Peter Wirth

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_