

1 SENATE BILL 414

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Clemente Sanchez

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10 AN ACT

11 RELATING TO TAXATION; MODIFYING PROVISIONS OF THE CULTURAL
12 PROPERTY INCOME TAX CREDITS; REPEALING AND REENACTING SECTIONS
13 OF THE NMSA 1978.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 7-2-18.2 NMSA 1978 (being Laws 1984,
17 Chapter 34, Section 1, as amended) is repealed and a new
18 Section 7-2-18.2 NMSA 1978 is enacted to read:

19 "7-2-18.2. [NEW MATERIAL] PRESERVATION OF CULTURAL
20 PROPERTY INCOME TAX CREDIT.--

21 A. A taxpayer who is not a dependent of another
22 taxpayer and who is the owner of a cultural property listed on
23 the official New Mexico register of cultural properties may
24 apply for, and the department may allow, a tax credit against
25 the taxpayer's tax liability imposed pursuant to the Income Tax

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1 Act in the amount of:

2 (1) fifty percent of the cost of a project on
3 a residential or commercial property;

4 (2) fifty percent of the cost of a project on
5 a residential property if the property is located within an
6 arts and cultural district certified by the state or a
7 municipality pursuant to the Arts and Cultural District Act; is
8 located within an area designated by the economic development
9 department as a frontier community; or is subject to the
10 provisions of the Main Street Act; and

11 (3) for a project on a commercial property
12 that is located within an arts and cultural district certified
13 by the state or a municipality pursuant to the Arts and
14 Cultural District Act; that is located within an area
15 designated by the economic development department as a frontier
16 community; or that is subject to the provisions of the Main
17 Street Act:

18 (a) fifty percent of the cost of a
19 project that costs one hundred thousand dollars (\$100,000) or
20 less;

21 (b) fifty thousand dollars (\$50,000)
22 plus thirty-five percent of the portion of the project cost
23 that is more than one hundred thousand dollars (\$100,000) but
24 not more than two hundred thousand dollars (\$200,000); and

25 (c) eighty-five thousand dollars

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1 (\$85,000) plus twenty-five percent of the project cost that is
2 more than two hundred thousand dollars (\$200,000) but not more
3 than one million dollars (\$1,000,000).

4 B. The tax credit provided by this section may be
5 referred to as the "preservation of cultural property income
6 tax credit". The purpose of the preservation of cultural
7 property income tax credit is to encourage the restoration,
8 rehabilitation and preservation of cultural properties.

9 C. The preservation of cultural property income tax
10 credit shall not exceed twenty-five thousand dollars (\$25,000)
11 per project described in Paragraph (1) of Subsection A of this
12 section or fifty thousand dollars (\$50,000) per project
13 described in Paragraph (2) of Subsection A of this section.
14 The department shall allow a preservation of cultural property
15 income tax credit only for a project certified by the
16 committee.

17 D. The department may allow a maximum annual
18 aggregate of one million five hundred thousand dollars
19 (\$1,500,000) in preservation of cultural property income tax
20 credits and preservation of cultural property corporate income
21 tax credits per year. Completed applications for the tax
22 credits shall be considered in the order received by the
23 department. If the applications for allowable preservation of
24 cultural property tax credits represent an aggregate amount
25 exceeding one million five hundred thousand dollars

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1 (\$1,500,000) for any calendar year, the excess applications
2 that would have been allowed, but for the limit imposed by this
3 subsection, shall be allowed, subject to the same limit, in
4 subsequent calendar years.

5 E. A taxpayer may claim a preservation of cultural
6 property income tax credit for each taxable year in which:

7 (1) the taxpayer submitted a plan and
8 specifications for a project to the committee and received
9 approval from the committee for the plan and specifications
10 prior to commencement of the project;

11 (2) the taxpayer received certification from
12 the committee after completing the project, or committee-
13 approved phase, that the project or phase conformed to the plan
14 and specifications and preserved and maintained those qualities
15 of the property that made the property eligible for inclusion
16 in the official register; and

17 (3) the project is completed within twenty-
18 four months after the date that the project is approved by the
19 committee in accordance with Paragraph (1) of this subsection.

20 F. A taxpayer may claim a preservation of cultural
21 property income tax credit for each taxable year in which a
22 project or a phase of a project is carried out. A taxpayer may
23 claim the tax credit for no more than ten consecutive years.

24 To receive a preservation of cultural property income tax
25 credit, a taxpayer shall apply to the department on forms and

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1 in the manner prescribed by the department. The application
2 shall include a certification made pursuant to Paragraph (2) of
3 Subsection E of this section.

4 G. That portion of a preservation of cultural
5 property income tax credit that exceeds a taxpayer's tax
6 liability in the taxable year in which the tax credit is
7 claimed shall be refunded to the taxpayer.

8 H. Married individuals filing separate returns for
9 a taxable year for which they could have filed a joint return
10 may each claim only one-half of the preservation of cultural
11 property income tax credit that would have been claimed on a
12 joint return.

13 I. A taxpayer may be allocated the right to claim a
14 preservation of cultural property income tax credit in
15 proportion to the taxpayer's ownership interest if the taxpayer
16 owns an interest in a business entity that is taxed for federal
17 income tax purposes as a partnership and that business entity
18 has met all of the requirements to be eligible for the tax
19 credit. The total tax credit claimed by all members of the
20 partnership or limited liability company shall not exceed the
21 allowable tax credit pursuant to Subsection C of this section.

22 J. The historic preservation division shall issue
23 certificates in the order that applications are received. The
24 division shall promulgate rules for the implementation of
25 Subsection C of this section.

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

4 L. The department shall compile an annual report on
5 the preservation of cultural property income tax credit that
6 shall include the number of taxpayers approved by the
7 department to receive the tax credit, the aggregate amount of
8 tax credits approved and any other information necessary to
9 evaluate the effectiveness of the tax credit. Beginning in
10 2016 and every year thereafter that the tax credit is in
11 effect, the department shall compile and present the annual
12 report to the revenue stabilization and tax policy committee
13 and the legislative finance committee with an analysis of the
14 effectiveness and cost of the tax credit and whether the tax
15 credit is performing the purpose for which it was created.

16 M. As used in this section:

17 (1) "commercial property" means a property in
18 which the majority of square footage is dedicated to a
19 business;

20 (2) "committee" means the cultural properties
21 review committee;

22 (3) "historic preservation division" means the
23 historic preservation division of the cultural affairs
24 department; and

25 (4) "project" means the restoration,

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1 rehabilitation or preservation of a cultural property listed on
2 the official New Mexico register of cultural properties."

3 SECTION 2. Section 7-2A-8.6 NMSA 1978 (being Laws 1984,
4 Chapter 34, Section 2, as amended) is repealed and a new
5 Section 7-2A-8.6 NMSA 1978 is enacted to read:

6 "7-2A-8.6. [NEW MATERIAL] PRESERVATION OF CULTURAL
7 PROPERTY CORPORATE INCOME TAX CREDIT.--

8 A. A taxpayer that files a New Mexico corporate
9 income tax return and that is the owner of a cultural property
10 listed on the official New Mexico register of cultural
11 properties may apply for, and the department may allow, a tax
12 credit against the taxpayer's tax liability imposed pursuant to
13 the Corporate Income and Franchise Tax Act in the amount of:

14 (1) fifty percent of the cost of a project on
15 a residential or commercial property;

16 (2) fifty percent of the cost of a project on
17 a residential property if the property is located within an
18 arts and cultural district certified by the state or a
19 municipality pursuant to the Arts and Cultural District Act; is
20 located within an area designated by the economic development
21 department as a frontier community; or is subject to the
22 provisions of the Main Street Act; and

23 (3) for a project on a commercial property
24 that is located within an arts and cultural district certified
25 by the state or a municipality pursuant to the Arts and

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1 Cultural District Act; that is located within an area
2 designated by the economic development department as a frontier
3 community; or that is subject to the provisions of the Main
4 Street Act:

5 (a) fifty percent of the cost of a
6 project that costs one hundred thousand dollars (\$100,000) or
7 less;

8 (b) fifty thousand dollars (\$50,000)
9 plus thirty-five percent of the portion of the project cost
10 that is more than one hundred thousand dollars (\$100,000) but
11 not more than two hundred thousand dollars (\$200,000); and

12 (c) eighty-five thousand dollars
13 (\$85,000) plus twenty-five percent of the project cost that is
14 more than two hundred thousand dollars (\$200,000) but not more
15 than one million dollars (\$1,000,000).

16 B. The tax credit provided by this section may be
17 referred to as the "preservation of cultural property corporate
18 income tax credit". The purpose of the preservation of
19 cultural property corporate income tax credit is to encourage
20 the restoration, rehabilitation and preservation of cultural
21 properties.

22 C. The preservation of cultural property corporate
23 income tax credit shall not exceed twenty-five thousand dollars
24 (\$25,000) per project described in Paragraph (1) of Subsection
25 A of this section or fifty thousand dollars (\$50,000) per

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1 project described in Paragraph (2) of Subsection A of this
2 section. The department shall allow a preservation of cultural
3 property corporate income tax credit only for a project
4 certified by the committee.

5 D. The department may allow a maximum annual
6 aggregate of one million five hundred thousand dollars
7 (\$1,500,000) in preservation of cultural property income tax
8 credits and preservation of cultural property corporate income
9 tax credits per year. If the applications for allowable
10 preservation of cultural property tax credits represent an
11 aggregate amount exceeding one million five hundred thousand
12 dollars (\$1,500,000) for any calendar year, the excess
13 applications that would have been allowed, but for the limit
14 imposed by this subsection, shall be allowed, subject to the
15 same limit, in subsequent calendar years.

16 E. A taxpayer may claim a preservation of cultural
17 property corporate income tax credit for each taxable year in
18 which:

19 (1) the taxpayer submitted a plan and
20 specifications for a project to the committee and received
21 approval from the committee for the plan and specifications
22 prior to commencement of the project;

23 (2) the taxpayer received certification from
24 the committee after completing the project, or committee-
25 approved phase, that the project or phase conformed to the plan

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1 and specifications and preserved and maintained those qualities
2 of the property that made the property eligible for inclusion
3 in the official register; and

4 (3) the project is completed within twenty-
5 four months after the date that the project is approved by the
6 committee in accordance with Paragraph (1) of this subsection.

7 F. A taxpayer may claim a preservation of cultural
8 property corporate income tax credit for each taxable year in
9 which a project or a phase of a project is carried out. A
10 taxpayer may claim the tax credit for no more than ten
11 consecutive years. To receive a preservation of cultural
12 property corporate income tax credit, a taxpayer shall apply to
13 the department on forms and in the manner prescribed by the
14 department. The application shall include a certification made
15 pursuant to Paragraph (2) of Subsection E of this section.

16 G. That portion of the preservation of cultural
17 property corporate income tax credit that exceeds a taxpayer's
18 liability in the taxable year in which the tax credit is
19 claimed shall be refunded to the taxpayer.

20 H. The historic preservation division shall issue
21 certificates in the order that applications are received. The
22 division shall promulgate rules for the implementation of
23 Subsection C of this section.

24 I. A taxpayer allowed a tax credit pursuant to this
25 section shall report the amount of the tax credit to the

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1 department in a manner required by the department.

2 J. The department shall compile an annual report on
3 the preservation of cultural property corporate income tax
4 credit that shall include the number of taxpayers approved by
5 the department to receive the tax credit, the aggregate amount
6 of tax credits approved and any other information necessary to
7 evaluate the effectiveness of the tax credit. Beginning in
8 2016 and every year thereafter that the tax credit is in
9 effect, the department shall compile and present the annual
10 report to the revenue stabilization and tax policy committee
11 and the legislative finance committee with an analysis of the
12 effectiveness and cost of the tax credit and whether the tax
13 credit is performing the purpose for which it was created.

14 K. As used in this section:

15 (1) "commercial property" means a property in
16 which the majority of square footage is dedicated to a
17 business;

18 (2) "committee" means the cultural properties
19 review committee;

20 (3) "historic preservation division" means the
21 historic preservation division of the cultural affairs
22 department; and

23 (4) "project" means the restoration,
24 rehabilitation or preservation of a cultural property listed on
25 the official New Mexico register of cultural properties."

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SECTION 3. APPLICABILITY.--The provisions of this act
apply to taxable years beginning on or after January 1, 2015.