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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Ron Griggs

AN ACT

RELATING TO TAXATION; CREATING THE MALL RENOVATION INCOME TAX
CREDIT AND THE MALL RENOVATION CORPORATE INCOME TAX CREDIT.

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

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

"[NEW MATERIAL] MALL RENOVATION INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2034, incurs qualifying costs for a mall renovation project may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "mall renovation income tax credit".

B. The credit provided by this section shall be in

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1 an amount equal to the product of the qualifying costs incurred
2 by a taxpayer for a mall renovation project multiplied by a
3 rate equal to the sum of the state and local gross receipts tax
4 rates at the location of the mall renovation project.

5 C. Prior to beginning a mall renovation project, a
6 taxpayer shall apply for pre-certification from the economic
7 development department, on forms and in the manner prescribed
8 by that department. The application shall include a proposal
9 for the mall renovation project, including a detailed
10 description of the project, projected costs, the expected
11 beginning and completion dates and a mall renovation project
12 plan, including phases of construction, if any. If the
13 economic development department determines that the projected
14 costs are likely to meet the requirements for qualifying costs,
15 it shall issue a pre-certification to the taxpayer; provided
16 that pre-certification received pursuant to this subsection
17 shall not mean that the actual costs for the mall renovation
18 project will be approved for a credit provided by this section.

19 D. Within one calendar year of completion of a mall
20 renovation project, the taxpayer shall apply for certification
21 of eligibility from the economic development department on
22 forms and in the manner prescribed by that department and
23 including an affidavit from a certified public accountant
24 verifying that the qualifying costs were incurred by the
25 taxpayer and meet the requirements of this section. The

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1 aggregate amount of credits that may be certified as eligible
2 in a calendar year is fifty million dollars (\$50,000,000).
3 Completed applications shall be considered in the order
4 received. If a taxpayer is eligible for the credit, a dated
5 certificate of eligibility shall be issued to the taxpayer
6 providing the amount of credit for which the taxpayer is
7 eligible; provided that applications for certification received
8 after the limitation on the aggregate amount of credits has
9 been met in a calendar year shall not be approved.

10 E. That portion of approved credit claimed by a
11 taxpayer that exceeds the taxpayer's income tax liability in
12 the taxable year in which the credit is claimed may be carried
13 forward for five consecutive taxable years.

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

18 G. A taxpayer may be allocated the right to claim
19 the credit provided by this section in proportion to the
20 taxpayer's ownership interest if the taxpayer owns an interest
21 in a business entity that is taxed for federal income tax
22 purposes as a partnership or limited liability company and that
23 business entity has met all of the requirements to be eligible
24 for the credit. The total credit claimed by all members of the
25 partnership or limited liability company shall not exceed the

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1 allowable credit pursuant to this section.

2 H. A taxpayer allowed a credit pursuant to this
3 section shall report the amount of the credit to the taxation
4 and revenue department on a form and in a manner required by
5 the department.

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

15 J. As used in this section:

16 (1) "mall" means real property located in New
17 Mexico that provides space for at least twenty individual
18 businesses that provide retail or food or beverage
19 establishments;

20 (2) "mall renovation project" means the
21 restoration, renovation and rehabilitation of at least seventy-
22 five percent of a mall. "Mall renovation project" does not
23 mean new construction; and

24 (3) "qualifying costs" means costs incurred by
25 the taxpayer:

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1 (a) for planning, designing,
2 construction and construction-related equipment for the
3 restoration, renovation and rehabilitation of a mall;

4 (b) in an amount equal to or greater
5 than two hundred fifty thousand dollars (\$250,000); and

6 (c) that shall not include any amount
7 for which a tax credit pursuant to the federal new markets tax
8 credit has been claimed pursuant to Section 45D of the Internal
9 Revenue Code, as that section may be amended or renumbered."

10 SECTION 2. A new section of the Corporate Income and
11 Franchise Tax Act is enacted to read:

12 "[NEW MATERIAL] MALL RENOVATION CORPORATE INCOME TAX
13 CREDIT.--

14 A. A taxpayer that, beginning on the effective date
15 of this section and prior to January 1, 2034, incurs qualifying
16 costs for a mall renovation project may claim a credit against
17 the taxpayer's tax liability imposed pursuant to the Corporate
18 Income and Franchise Tax Act. The tax credit provided by this
19 section may be referred to as the "mall renovation corporate
20 income tax credit".

21 B. The credit provided by this section shall be in
22 an amount equal to the product of the qualifying costs incurred
23 by a taxpayer for a mall renovation project multiplied by a
24 rate equal to the sum of the state and local gross receipts tax
25 rates at the location of the mall renovation project.

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1 C. Prior to beginning a mall renovation project, a
2 taxpayer shall apply for pre-certification from the economic
3 development department, on forms and in the manner prescribed
4 by that department. The application shall include a proposal
5 for the mall renovation project, including a detailed
6 description of the project, projected costs, the expected
7 beginning and completion dates and a mall renovation project
8 plan, including phases of construction, if any. If the
9 economic development department determines that the projected
10 costs are likely to meet the requirements for qualifying costs,
11 it shall issue a pre-certification to the taxpayer; provided
12 that pre-certification received pursuant to this subsection
13 shall not mean that the actual costs for the mall renovation
14 project will be approved for a credit provided by this section.

15 D. Within one calendar year of completion of a mall
16 renovation project, the taxpayer shall apply for certification
17 of eligibility from the economic development department on
18 forms and in the manner prescribed by that department and
19 including an affidavit from a certified public accountant
20 verifying that the qualifying costs were incurred by the
21 taxpayer and meet the requirements of this section. The
22 aggregate amount of credits that may be certified as eligible
23 in a calendar year is fifty million dollars (\$50,000,000).
24 Completed applications shall be considered in the order
25 received. If a taxpayer is eligible for the credit, a dated

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1 certificate of eligibility shall be issued to the taxpayer
2 providing the amount of credit for which the taxpayer is
3 eligible; provided that applications for certification received
4 after the limitation on the aggregate amount of credits has
5 been met in a calendar year shall not be approved.

6 E. That portion of approved credit claimed by a
7 taxpayer that exceeds the taxpayer's corporate income tax
8 liability in the taxable year in which the credit is claimed
9 may be carried forward for five consecutive taxable years.

10 F. A taxpayer allowed a credit pursuant to this
11 section shall report the amount of the credit to the taxation
12 and revenue department on a form and in a manner required by
13 the department.

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

23 H. As used in this section:

24 (1) "mall" means real property located in New
25 Mexico that provides space for at least twenty individual

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1 businesses that provide retail or food or beverage
2 establishments;

3 (2) "mall renovation project" means the
4 restoration, renovation and rehabilitation of at least seventy-
5 five percent of the mall. "Mall renovation project" does not
6 mean new construction; and

7 (3) "qualifying costs" means costs incurred by
8 the taxpayer:

9 (a) for planning, designing,
10 construction and construction-related equipment for the
11 restoration, renovation and rehabilitation of a mall;

12 (b) in an amount equal to or greater
13 than two hundred fifty thousand dollars (\$250,000); and

14 (c) that shall not include any amount
15 for which a tax credit pursuant to the federal new markets tax
16 credit has been claimed pursuant to Section 45D of the Internal
17 Revenue Code, as that section may be amended or renumbered."

18 SECTION 3. APPLICABILITY.--The provisions of this act
19 apply to taxable years beginning on or after January 1, 2024.