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SENATE BILL 243

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

INTRODUCED BY

Siah Correa Hemphill

AN ACT

RELATING TO TAXATION; CREATING THE HOTEL RENOVATION INCOME TAX CREDIT AND THE HOTEL 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] HOTEL 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, 2028, incurs qualifying costs for a hotel 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 "hotel renovation income tax credit".

B. The credit provided by this section shall be in

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1 an amount equal to the following percentages of qualifying  
2 costs incurred by a taxpayer for a hotel renovation project;  
3 provided that an amount of credit shall not exceed five percent  
4 of the aggregate amount of credits that may be certified as  
5 provided by Subsection D of this section:

6 (1) thirty percent of qualifying costs for a  
7 hotel that receives a certification level of LEED-NC silver; or

8 (2) twenty percent of qualifying costs.

9 C. Prior to incurring qualifying costs, a taxpayer  
10 shall apply for preliminary certification of eligibility for  
11 the tax credit from the tourism department, on forms and in the  
12 manner prescribed by the tourism department. The application  
13 shall include a proposal for the hotel renovation project,  
14 including a detailed description of the project, projected  
15 costs, the expected beginning and completion dates and a hotel  
16 renovation project plan, including phases of construction, if  
17 any. Such preliminary certification shall be made in  
18 consultation with the construction industries division of the  
19 regulation and licensing department and shall be limited to  
20 confirming that the qualifying costs proposed to be made by the  
21 taxpayer will be used for a hotel renovation project and  
22 providing an estimate of the amount of tax credit for which the  
23 taxpayer may be eligible. A taxpayer shall be eligible for  
24 only one certificate of eligibility per hotel renovation  
25 project.

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1           D. Within twelve months of completion of a hotel  
2 renovation project, the taxpayer shall seek final certification  
3 from the tourism department on forms and in the manner  
4 prescribed by the tourism department and including an affidavit  
5 from a certified public accountant verifying that the  
6 qualifying costs were incurred by the taxpayer and meet the  
7 requirements of this section. The aggregate amount of credits  
8 that may be certified as eligible in a calendar year is twenty-  
9 five million dollars (\$25,000,000). Completed applications  
10 shall be considered in the order received. If, after  
11 consultation with the construction industries division of the  
12 regulation and licensing department, the tourism department  
13 determines that the taxpayer meets the requirements of this  
14 section, the tourism department shall issue a dated certificate  
15 of eligibility to the taxpayer providing the amount of tax  
16 credit for which the taxpayer is eligible and the taxable years  
17 in which the credit may be claimed; provided that applications  
18 for certification received after the limitation on the  
19 aggregate amount of credits has been met in a calendar year  
20 shall not be approved. The tourism department shall provide  
21 the department with the certificates of eligibility issued  
22 pursuant to this subsection in an electronic format at  
23 regularly agreed-upon intervals.

24           E. A taxpayer allowed to claim the tax credit shall  
25 claim the credit in a manner required by the department. The

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1 tax credit shall be claimed within one taxable year of the end  
2 of the calendar year in which the tourism department provides  
3 final certification of the credit. That portion of approved  
4 credit claimed by a taxpayer that exceeds the taxpayer's income  
5 tax liability in the taxable year in which the credit is  
6 claimed may be carried forward for five consecutive taxable  
7 years.

8 F. 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 credit that would have been  
11 claimed on a joint return.

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

21 H. A taxpayer allowed a credit pursuant to this  
22 section shall report the amount of the credit to the taxation  
23 and revenue department on a form and in a manner required by  
24 the department.

25 I. The department shall compile an annual report on

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

9 J. As used in this section:

10 (1) "hotel" means a building in New Mexico:

11 (a) where, for consideration, lodging is  
12 regularly furnished to the general public; and

13 (b) that provides at least fifteen guest  
14 rooms or suites for overnight guest use;

15 (2) "hotel renovation project" means the  
16 restoration, renovation and rehabilitation of at least forty  
17 percent of the guest rooms or suites of a hotel. "Hotel  
18 renovation project" does not mean new construction;

19 (3) "LEED-NC silver" means the rating in  
20 compliance with, or exceeding, the third-highest rating awarded  
21 by the LEED certification process for new buildings and major  
22 renovations. As used in this paragraph, "LEED" means the most  
23 current leadership in energy and environmental design green  
24 building rating system guidelines developed and adopted by the  
25 United States green building council; and

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1 (4) "qualifying costs" means costs incurred by  
2 the taxpayer:

3 (a) for planning, designing,  
4 construction and construction-related equipment for the  
5 restoration, renovation and rehabilitation of a hotel;

6 (b) in an amount equal to or greater  
7 than: 1) twenty-five thousand dollars (\$25,000) in a county  
8 with a population of fifteen thousand or less according to the  
9 most recent federal decennial census; or 2) forty thousand  
10 dollars (\$40,000) in a county with a population greater than  
11 fifteen thousand according to the most recent federal decennial  
12 census; and

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

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

19 "[NEW MATERIAL] HOTEL RENOVATION CORPORATE INCOME TAX  
20 CREDIT.--

21 A. A taxpayer that, beginning on the effective date  
22 of this section and prior to January 1, 2028, incurs qualifying  
23 costs for a hotel renovation project may claim a credit against  
24 the taxpayer's tax liability imposed pursuant to the Corporate  
25 Income and Franchise Tax Act. The tax credit provided by this

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1 section may be referred to as the "hotel renovation corporate  
2 income tax credit".

3 B. The credit provided by this section shall be in  
4 an amount equal to the following percentages of qualifying  
5 costs incurred by a taxpayer for a hotel renovation project;  
6 provided that an amount of credit shall not exceed five percent  
7 of the aggregate amount of credits that may be certified as  
8 provided by Subsection D of this section:

9 (1) thirty percent of qualifying costs for a  
10 hotel that receives a certification level of LEED-NC silver; or

11 (2) twenty percent of qualifying costs.

12 C. Prior to incurring qualifying costs, a taxpayer  
13 shall apply for preliminary certification of eligibility for  
14 the tax credit from the tourism department, on forms and in the  
15 manner prescribed by the tourism department. The application  
16 shall include a proposal for the hotel renovation project,  
17 including a detailed description of the project, projected  
18 costs, the expected beginning and completion dates and a hotel  
19 renovation project plan, including phases of construction, if  
20 any. Such preliminary certification shall be made in  
21 consultation with the construction industries division of the  
22 regulation and licensing department and shall be limited to  
23 confirming that the qualifying costs proposed to be made by the  
24 taxpayer will be used for a hotel renovation project and  
25 providing an estimate of the amount of tax credit for which the

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1 taxpayer may be eligible. A taxpayer shall be eligible for  
2 only one certificate of eligibility per hotel renovation  
3 project.

4 D. Within twelve months of completion of a hotel  
5 renovation project, the taxpayer shall seek final certification  
6 from the tourism department on forms and in the manner  
7 prescribed by the tourism department and including an affidavit  
8 from a certified public accountant verifying that the  
9 qualifying costs were incurred by the taxpayer and meet the  
10 requirements of this section. The aggregate amount of credits  
11 that may be certified as eligible in a calendar year is twenty-  
12 five million dollars (\$25,000,000). Completed applications  
13 shall be considered in the order received. If, after  
14 consultation with the construction industries division of the  
15 regulation and licensing department, the tourism department  
16 determines that the taxpayer meets the requirements of this  
17 section, the tourism department shall issue a dated certificate  
18 of eligibility to the taxpayer providing the amount of tax  
19 credit for which the taxpayer is eligible and the taxable years  
20 in which the credit may be claimed; provided that applications  
21 for certification received after the limitation on the  
22 aggregate amount of credits has been met in a calendar year  
23 shall not be approved. The tourism department shall provide  
24 the department with the certificates of eligibility issued  
25 pursuant to this subsection in an electronic format at

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1 regularly agreed-upon intervals.

2 E. A taxpayer allowed to claim the tax credit shall  
3 claim the credit in a manner required by the department. The  
4 tax credit shall be claimed within one taxable year of the end  
5 of the calendar year in which the tourism department provides  
6 final certification of the credit. That portion of approved  
7 credit claimed by a taxpayer that exceeds the taxpayer's  
8 corporate income tax liability in the taxable year in which the  
9 credit is claimed may be carried forward for five consecutive  
10 taxable years.

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

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

24 H. As used in this section:

25 (1) "hotel" means a building in New Mexico:

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1 (a) where, for consideration, lodging is  
2 regularly furnished to the general public; and

3 (b) that provides at least fifteen guest  
4 rooms or suites for overnight guest use;

5 (2) "hotel renovation project" means the  
6 restoration, renovation and rehabilitation of at least forty  
7 percent of the guest rooms or suites of a hotel. "Hotel  
8 renovation project" does not mean new construction;

9 (3) "LEED-NC silver" means the rating in  
10 compliance with, or exceeding, the third-highest rating awarded  
11 by the LEED certification process for new buildings and major  
12 renovations. As used in this paragraph, "LEED" means the most  
13 current leadership in energy and environmental design green  
14 building rating system guidelines developed and adopted by the  
15 United States green building council; and

16 (4) "qualifying costs" means costs incurred by  
17 the taxpayer:

18 (a) for planning, designing,  
19 construction and construction-related equipment for the  
20 restoration, renovation and rehabilitation of a hotel;

21 (b) in an amount equal to or greater  
22 than: 1) twenty-five thousand dollars (\$25,000) in a county  
23 with a population of fifteen thousand or less according to the  
24 most recent federal decennial census; or 2) forty thousand  
25 dollars (\$40,000) in a county with a population greater than

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1 fifteen thousand according to the most recent federal decennial  
2 census; and

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

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

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