

1 SENATE BILL 403

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Siah Correa Hemphill

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10 AN ACT

11 RELATING TO TAXATION; CREATING THE HOTEL RENOVATION INCOME TAX
12 CREDIT AND THE HOTEL RENOVATION CORPORATE INCOME TAX CREDIT.

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

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

17 "[NEW MATERIAL] HOTEL RENOVATION INCOME TAX CREDIT.--

18 A. A taxpayer who is not a dependent of another
19 individual and who, beginning on the effective date of this
20 section and prior to January 1, 2033, incurs qualifying costs
21 for a hotel renovation project may claim a credit against the
22 taxpayer's tax liability imposed pursuant to the Income Tax
23 Act. The tax credit provided by this section may be referred
24 to as the "hotel renovation income tax credit".

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

5 (2) twenty percent of qualifying costs.

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

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

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1 taxpayer and meet the requirements of this section. The
2 aggregate amount of credits that may be certified as eligible
3 in a calendar year is thirty million dollars (\$30,000,000).
4 Completed applications shall be considered in the order
5 received. If a taxpayer is eligible for the credit, a dated
6 certificate of eligibility shall be issued to the taxpayer
7 providing the amount of credit for which the taxpayer is
8 eligible; provided that applications for certification received
9 after the limitation on the aggregate amount of credits has
10 been met in a calendar year shall not be approved.

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

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

19 G. A taxpayer may be allocated the right to claim
20 the credit provided by this section in proportion to the
21 taxpayer's ownership interest if the taxpayer owns an interest
22 in a business entity that is taxed for federal income tax
23 purposes as a partnership or limited liability company and that
24 business entity has met all of the requirements to be eligible
25 for the credit. The total credit claimed by all members of the

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1 partnership or limited liability company shall not exceed the
2 allowable credit pursuant to this section.

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

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

16 J. As used in this section:

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

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

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

22 (2) "hotel renovation project" means the
23 restoration, renovation and rehabilitation of at least forty
24 percent of the guest rooms or suites of a hotel. "Hotel
25 renovation project" does not mean new construction;

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1 (3) "LEED-NC silver" means the rating in
2 compliance with, or exceeding, the third-highest rating awarded
3 by the LEED certification process for new buildings and major
4 renovations. As used in this paragraph, "LEED" means the most
5 current leadership in energy and environmental design green
6 building rating system guidelines developed and adopted by the
7 United States green building council; and

8 (4) "qualifying costs" means costs incurred by
9 the taxpayer:

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

13 (b) in an amount equal to or greater
14 than: 1) twenty-five thousand dollars (\$25,000) in a county
15 with a population of fifteen thousand or less according to the
16 most recent federal decennial census; or 2) forty thousand
17 dollars (\$40,000) in a county with a population greater than
18 fifteen thousand according to the most recent federal decennial
19 census; and

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

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

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1 "[NEW MATERIAL] HOTEL RENOVATION CORPORATE INCOME TAX

2 CREDIT.--

3 A. A taxpayer that, beginning on the effective date
4 of this section and prior to January 1, 2033, incurs qualifying
5 costs for a hotel renovation project may claim a credit against
6 the taxpayer's tax liability imposed pursuant to the Corporate
7 Income and Franchise Tax Act. The tax credit provided by this
8 section may be referred to as the "hotel renovation corporate
9 income tax credit".

10 B. The credit provided by this section shall be in
11 an amount equal to the following percentages of qualifying
12 costs incurred by a taxpayer for a hotel renovation project:

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

15 (2) twenty percent of qualifying costs.

16 C. Prior to beginning a hotel renovation project, a
17 taxpayer shall apply for pre-certification from the tourism
18 department, on forms and in the manner prescribed by the
19 tourism department. The application shall include a proposal
20 for the hotel renovation project, including a detailed
21 description of the project, projected costs, the expected
22 beginning and completion dates and a hotel renovation project
23 plan, including phases of construction, if any. If the tourism
24 department determines that the projected costs are likely to
25 meet the requirements for qualifying costs, it shall issue a

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1 pre-certification to the taxpayer; provided that pre-
2 certification received pursuant to this subsection shall not
3 mean that the actual costs for the hotel renovation project
4 will be approved for a credit provided by this section.

5 D. Within one calendar year of completion of a
6 hotel renovation project, the taxpayer shall apply for
7 certification of eligibility from the tourism department on
8 forms and in the manner prescribed by the tourism department
9 and including an affidavit from a certified public accountant
10 verifying that the qualifying costs were incurred by the
11 taxpayer and meet the requirements of this section. The
12 aggregate amount of credits that may be certified as eligible
13 in a calendar year is thirty million dollars (\$30,000,000).
14 Completed applications shall be considered in the order
15 received. If a taxpayer is eligible for the credit, a dated
16 certificate of eligibility shall be issued to the taxpayer
17 providing the amount of credit for which the taxpayer is
18 eligible; provided that applications for certification received
19 after the limitation on the aggregate amount of credits has
20 been met in a calendar year shall not be approved.

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

25 F. A taxpayer allowed a credit pursuant to this

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2 and revenue department on a form and in a manner required by
3 the department.

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

13 H. As used in this section:

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

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

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

19 (2) "hotel renovation project" means the
20 restoration, renovation and rehabilitation of at least forty
21 percent of the guest rooms or suites of a hotel. "Hotel
22 renovation project" does not mean new construction;

23 (3) "LEED-NC silver" means the rating in
24 compliance with, or exceeding, the third-highest rating awarded
25 by the LEED certification process for new buildings and major

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2 current leadership in energy and environmental design green
3 building rating system guidelines developed and adopted by the
4 United States green building council; and

5 (4) "qualifying costs" means costs incurred by
6 the taxpayer:

7 (a) for planning, designing,
8 construction and construction-related equipment for the
9 restoration, renovation and rehabilitation of a hotel;

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

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

21 SECTION 3. APPLICABILITY.--The provisions of this act
22 apply to taxable years beginning on or after January 1, 2023.