BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

March 3, 2025

Bill: HB-506 **Sponsor:** Representatives Art De La Cruz, Luis M. Terrazas, Doreen Y. Gallegos and Mark Duncan

Short Title: Hotel Renovation Tax Credit

Description: This bill creates new hotel renovation tax credits against both Personal and Corporate income taxes. The credit is for a taxpayer who, prior to January 1, 2035, incurs qualifying costs for a hotel renovation project. The credit is equal to 30% of qualifying costs for a hotel that receives a certification level of LEED-NC silver, or 20% of qualifying costs otherwise. A taxpayer must apply for pre-certification from the Tourism Department (TD) prior to beginning a project and then apply for certification of eligibility from TD within one calendar year of completing the project. The aggregate amount of credits that may be certified as eligible is $30 million per calendar year under each tax program, for a total cap of $60 million. The portion of approved credit that exceeds a taxpayer's income tax liability in the year in which the credit is claimed may be carried forward for five consecutive taxable years.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(Unknown but up to $60,000)	(Unknown but up to $60,000)	(Unknown but up to $60,000)	(Unknown but up to $60,000)	R	General Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Some unknown aspects do not allow Taxation and Revenue Department (Tax & Rev) to estimate a precise fiscal impact. First, it is unknown how many hotels will initiate renovation projects and the size of those projects. Second, Tax & Rev cannot anticipate how much taxpayers will invest in renovation projects and therefore how much credit they may potentially claim against either their income tax or corporate tax liability, since it depends on whether the process to claim a credit and the amount of the final credit will incentivize projects. Finally, the credit is dependent on the total cost of the renovation project and then equal to either 30% or 20% of the expenditure, depending on the hotel's LEED certification. Based on these limitations of information and ability to make assumptions, Tax & Rev determined the fiscal impact might be negative but unknown. Per the bill, the maximum amount of the credits would not exceed $30 million each for credits claimed under Personal Income Tax (PIT) and Corporate Income Tax (CIT).

Policy Issues: The bill aims to stimulate hotel renovation and, therefore, the tourism industry. The economic impact of these renovation projects will also be seen in the local construction industry, as different industries boost general economic activity and employment. New Mexico's tourism industry makes a sizable contribution to local income and tax revenue, so it is reasonable to attend to this industry, and particularly hotels. However, the full extent of both the costs and benefits of this credit is unknown.

According to data from New Mexico Economic Development Department,[1] the Accommodation, and Food Services industry contributes significantly to the gross receipts tax base. The New Mexico Department of Workforce Solutions reports that New Mexico's Accommodation and Food Services industry employed just under 95,000 workers in 2023, contributing over $2.4 billion in total wages that contribute to personal income tax revenue. Accommodation and food services is the state's third largest industry sector in terms of employment.[2] The positive economic impact of these credits will be felt only if the proposed tax incentive is sufficient to trigger generalized renovation projects and if it is accompanied by other strategies.

Since the credit is non-refundable, it is possible that a taxpayer may not receive the benefit of the entire credit. Taxpayers will have little additional incentive to undertake a renovation project as a result of this credit if they have little or no New Mexico tax liability to offset. During a large renovation project, a hotel may have negative taxable income and net operating losses that reduce or eliminate their tax liability, causing the incentive to go unused. However, the credit may be carried forward for up to five years, and so be available if the hotel has positive taxable income in future years.

The credit has a defined aggregate claim limit and an end date of tax year 2035. Tax & Rev supports fiscal limits and sunset dates for policymakers to review the impact of tax expenditures before extending them. This is critical to this bill as at the current moment the fiscal impact is unknown.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on both taxpayers and Tax & Rev. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Technical Issues: These credits are separate under Income Tax and Corporate Income Tax acts. However, it is unclear whether TD must be able to determine which tax credit the taxpayer is eligible for or intends to take. Also, the bill does not state that a taxpayer that claims a hotel renovation income tax credit pursuant to the Income Tax Act shall not also claim a hotel renovation corporate income tax credit pursuant to the Corporate Income Tax Act for the same renovation project. Tax & Rev suggests in Section 1(D) on pages 2 and 3, and Section 2(D) on pages 6 and 7, that the language specifies one credit certification per project. Such language might read: "A taxpayer that has submitted an application for a hotel renovation corporate income tax credit with respect to a hotel renovation project may not submit an application for a hotel income tax credit with respect to the same hotel renovation project" for Section 1(D), and "A taxpayer that has submitted an application for a hotel renovation income tax credit with respect to a hotel renovation project may not submit an application for a hotel renovation corporate income tax credit with respect to the same hotel renovation project" for Section 2(D).

Tax & Rev also recommends the following additions on page 3, line 10 and page 7, line 15, after "approved.": "The certification must include the taxpayer identification number, first eligible tax year, and shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed. The tourism department shall provide the taxation and revenue department electronic certification information for all eligible taxpayers to whom certificates are issued in a secure and regular manner as agreed upon by both the taxation and revenue department and the tourism department."

There is a time limit for when a taxpayer must apply for the certification of the credit from the Tourism

[1] https://edd.newmexico.gov/wp-content/uploads/2024/12/December-2024-Economic-Summary-New-Mexico.pdf
[2] https://www.dws.state.nm.us/Portals/0/DM/LMI/Industry_Spotlight_Accommodation_and_Food_Services.pdf

Department, but there is no limit on when the taxpayer must claim the credit on a tax return. Adding that deadline will help keep the $30 million certification cap for both PIT and CIT claimed consistent over each tax year. Tax & Rev suggests adding language at page 3, line 11, stating that the tax credit must be claimed starting in the year that the credit is certified as eligible by TD. Tax & Rev suggests the following language as a new subsection: "A taxpayer who receives a certificate of eligibility shall claim the credit commencing in the first eligible tax year stated in the certificate of eligibility."

On page 3, line 10, and page 7, line 15, applications for certification of the credit will not be approved if TD has already approved $30 million in certifications in that calendar year. But this only affects the approval process; it fails to limit what may be paid out in any given fiscal year because the credit can be carried forward to future tax years. More certainty, control, and accountability could be achieved through an amendment reflecting language found in Section 7-2-18.32(E).

On page 5, line 3 and page 8, line 20, the definition of "qualifying costs" states that the taxpayer has not received a federal credit for the same project. The bill does not detail what information will be provided to TD to verify this condition in determining final qualifying costs and therefore the amount of the credit.

It is unclear if this hotel renovation tax credit is only available for the hotel owner or if the credit extends to a contractor who incurs "qualifying costs" as defined on page 5, line 3, and page 8, line 20. Tax & Rev suggests adding an additional condition to the definition, specifying that only "the hotel owner or principle of the ownership group" may apply for and claim the credit.

Other Issues: In Section 1(C), a hotel shall apply for pre-certification of their project from TD. Tax & Rev notes that a hotel that has been pre-certified for the tax credit may not receive the final certification for a credit if the maximum annual amount has been met per subsection D and is thus not approved. This has the potential of uncertainty for the taxpayer as the pre-certification does not guarantee final certification.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. This bill will have an impact on Tax & Rev's Information Technology Division (ITD) of approximately 4 months and 680 hours for an estimated staff workload cost of $45,315. Additionally, Tax & Rev's Administrative Services Division (ASD) will be required to test the system changes. It is anticipated this work will take approximately 80 hours, split between two existing full-time employees (FTE).

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$5.1	--	$5.1	NR	ASD - Operating
--	$45.3	--	$45.3	NR	ITD - Staff workload costs

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).