BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

March 3, 2025

Bill: HB-511 **Sponsor:** Representatives Rebecca Dow, Jonathan A. Henry, Alan T. Martinez, and Andrea Romero

Short Title: Retail Center Renovation Tax Credit

Description: This bill creates the retail center renovation tax credit for income tax and corporate income tax for individuals who, prior to January 1, 2035, incur qualifying renovation costs for a retail center renovation project. The credit is 10% percent of the qualifying renovation costs, not to exceed $1,500,000. That portion of approved credit claimed by a taxpayer that exceeds the taxpayer's income tax liability may be carried forward for five consecutive tax years. The taxpayer will apply for certification of eligibility from the Economic Development Department (EDD) within one year of the date the project is completed. The aggregate amount of credits that may be certified between both the income tax and corporate income tax is $15 million.

Effective Date: 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 $15,000)	(Unknown but up to $15,000)	(Unknown but up to $15,000)	(Unknown but up to $15,000)	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 the Taxation and Revenue Department (Tax & Rev) to estimate a precise fiscal impact. First, it is unknown how many retail centers will initiate renovation projects and what size those projects will be, as the bill requires that at least fifty percent of the overall square footage of the retail center be remodeled. 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 $1.5 million cap per project will incentivize renovations. Based on these limitations of information and ability to make assumptions, Tax & Rev determined the fiscal impact will be negative but unknown. Per the bill, the maximum amount of credits would not exceed $15 million each for credits claimed under Personal Income Tax (PIT) and Corporate Income Tax (CIT).

Policy Issues: The bill aims to stimulate retail center renovation, an essential part of the retail trade sector, by offsetting part of the costs incurred in renovation projects through PIT and CIT credits. The economic impacts of these renovation projects will also be seen in the state and local construction industry, which contributes to gross receipts tax revenue and wages and generates wages and salaries subject to PIT. Retail trade is one of New Mexico's larger sectors, making a substantive contribution to tax revenue. However, the full extent of the costs and benefits of this credit is unknown.

According to EDD data,[1] the retail trade sector strongly impacts economic activity dynamics and contributes roughly one-fifth of the GRT base. The New Mexico Department of Workforce Solutions reports that New Mexico retailers employed slightly over 95,000 workers in 2023, contributing over $3.4 billion in total wages that contribute to personal income tax revenue. Retail trade is the state's second-largest industry sector in terms of employment, employing about 11.1% of the state's workforce.[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 retail center 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 5 years and so be available if the mall has positive taxable income in future years.

Additionally, the retail trade sector is moving chiefly toward non-store retailers due mainly to the retail digital transformation. This might affect some sources of revenue for local governments, such as property tax, pending the second-best use of this land. For its part, destination-based sourcing and internet gross receipts tax will enable the continued flow of GRT revenue to local governments regardless of this major change in the retail trade sector. Nonetheless, the bill's provision for converting a retail center into a mixed-use development with a combination of commercial, office, or residential spaces or adaptively reusing a retail center into multifamily residential housing might offset the negative effects of non-store retail on these properties and incentivize these projects.

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: Tax & Rev suggests the following additions on page 3, line 4 and page 7, line 20, 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 economic development 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 economic development department."

Other Issues: On page 3, line 4, and page 7, line 20, applications for certification of the credit will not be approved if EDD has already approved $15 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.

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[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_Retail_Trade.pdf

Tax & Rev notes in Section 1(F), and Section 2(F), the bill 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 EDD to verify this condition and therefore the amount of the credit. This may need further clarification and definition for EDD to certify the taxpayer's project for eligibility.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. This implementation will be included in the annual tax year changes.

Tax & Rev's Administrative Services Division (ASD) will test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2.0 FTE of a pay band 70 and a pay band 80 at a cost of approximately $2,500. Pay band 70 hours are estimated at time and ½ due to extra hours worked required for implementation.

Tax & Rev's Information Technology Division (ITD) estimates that implementing the bill will require approximately 680 hours or about 4 months for an estimated staff workload cost of $45,315. The estimate includes an interface between Tax & Rev and EDD (See Technical Issues). The data exchange will require coordination with the EDD and should be implemented shortly after EDD begins issuing certificates of eligibility so that Tax & Rev will have a record of the certificates of eligibility in GenTax, the tax system of record, when the taxpayer claims the credit on their income tax return.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$2.5	--	$2.5	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).