BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 26, 2025

Bill: HB-568 **Sponsor:** Representatives Cynthia Borrego and Joseph L. Sanchez

Short Title: Home Fire Recovery Tax Credit

Description: This bill creates a tax credit in the Income Tax Act called the “Home Fire Recovery Income Tax Credit”. This credit is effective for taxable years 2025 through 2030. This credit is for a taxpayer that incurs qualified site-build home expenditures for a home in New Mexico to replace a prior home of that taxpayer that was destroyed in a wildfire in calendar years 2021 through 2023. The credit is applied for through the Construction Industries Division of the Regulations and Licensing Department (RLD). The credit must be applied for within 1 year of the site-built home being completed. This credit is non-refundable and may be carried forward for 3 consecutive tax 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: Lucinda Sydow

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

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	No impact (See Narrative)					General Fund

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

Methodology for Estimated Revenue Impact: A very similar credit is already in law under Section 7-2-18.35 NMSA 1978. Tax year 2024 was the first year that the credit may be claimed, and Tax & Rev does not yet have data to ascertain the level of claiming for the new credit. This bill though removes the credit amount per taxpayer and removes an aggregate cap. The bill proposal also expands the amount that can be compensated by not including in the excluded compensation, insurance and other sources of compensation. Unlike Section 7-2-18.35 NMSA 1978, this bill excludes manufactured homes, and only applies to homes with foundations, and that cannot be moved. Based on the analysis from the bill in the 2024 legislative session, HB-10, Tax & Rev still concludes that given the average tax liability for these taxpayers, the anticipated revenue loss to the General Fund will remain under the current $5 million cap. The current December 2025 Consensus Revenue Estimating Group’s (CREG) forecast includes this fiscal impact. A summary of the analysis from the 2024 legislation follows.

The bill's fiscal impact is uncertain and cannot be fully quantified. The lack of information such as (1) the number of site-built homes destroyed by wildfires between 2021 to 2023, (2) which taxpayers would seek compensation pursuant to the federal Hermit’s Peak/Calf Canyon Fire Assistance Act (the Federal Act), (3) the dollar amount approved by the Federal Emergency Management Agency (FEMA) in qualified disaster relief payments for the home loss under the Federal Act, (4) the dollar amount of home expenditures incurred by the taxpayer, and (5) the taxpayer’s tax liability after applying allowances or other credits to which they are entitled, prevent the Taxation and Revenue Department (Tax & Rev) from being able to provide an estimation of the revenue loss with precision. Notwithstanding that, Tax & Rev anticipates the revenue loss to the General Fund might be moderate based on some assumptions.

Considering the major wildfires between 2021 and 2023 affected mainly residents of Lincoln, Mora, and San Miguel counties, Tax & Rev used the median household income in these counties[1] and the overall statewide effective income tax rate for residents to compute the average income tax liability against which taxpayers might claim the proposed tax credit. Tax & Rev disregarded any other allowances or credits taxpayers might claim. Tax & Rev also assumes that per Internal Revenue Code (IRC) Section 139, any qualified disaster relief payments associated with the fires received by taxpayers are non-taxable and therefore do not increase the state taxable income for those taxpayers receiving such payments.[2] Tax & Rev also used an average price for building a new home of $300,000. The new home's size, location, and design will impact the overall cost of the building. Per information released by FEMA on the amount of payments to claimants, Tax & Rev determined that $175,373 has been paid on average in compensation as of January 11, 2024, to 990 individuals or households under the Federal Act. These payments might include either loss of property (homes or cars), financial loss, or compensation for mental health treatment. After deducting these payments from the average home price for residents in Mora and San Miguel Counties, Tax & Rev determined that the average tax credit taxpayers might claim in Mora and San Miguel Counties, under current assumptions, is $124,627. For those in Lincoln County, the credit could be $300,000. Given the assumption of tax liability per individual and given the credit is non-refundable, only a fraction of these average credit amounts may be claimed against state Personal Income Tax (PIT) liability.

The range of values for the fiscal impact is based on the uncertainty regarding the number of homes destroyed by the wildfires. No official records exist, and the number ranges from 160[3] to 600[4] for the Hermit's Peak/Calf Canyon Fires and over 200 for the McBride Fire, depending on the source. The proportion of site-built homes is uncertain as well. Also, many homeowners may choose to buy a mobile home to place on their properties which are not covered under the bill *(Note: this was amended in the final passage of the credit. The credit can apply to manufactured or modular homes.)* In addition, taxpayers with additional business pass-through income may have more tax liability to offset with this non-refundable credit. Hence, the range captures many uncertainties of each individual taxpayer financial situation and decisions in future construction. The fiscal impact was grown using the December 2023 Consensus Revenue Estimating Group (CREG) forecast for PIT growth rate.

Policy Issues: This credit proposal introduces a slightly different version of an existing tax credit as a new section of law using the exact same title. During the 2024 Legislative Session, HB252 was passed and signed into law. This omnibus tax bill included the Home Fire Recovery Income Tax Credit (HB-10 as amended) which was chaptered and entered under law as 7-2-18.35 NMSA 1978. This new credit proposal shares many aspects of the current credit. The table below compares the current law with the new proposed credit.

Detail	Existing Law (7-2-18.35 NMSA 1978)	Proposed New Bill (House Bill 568)
Effective Period	Effective until January 1, 2030	Effective until January 1, 2031
Tax Credit Amount	Up to $50,000 per home	Equal to the qualified site-built home expenditures

1 https://www.census.gov/quickfacts/fact/table/lincolncountynewmexico,moracountynewmexico,sanmiguelcountynewmexico/PST045223

2 26 USC 139: Disaster relief payments, Title 26 of the United States Code (26 USC), https://uscode.house.gov/

3 https://storymaps.arcgis.com/stories/d48e2171175f4aa4b5613c2d11875653

4 https://www.singletonschreiber.com/practices/california-fire-damage-attorneys/hermits-peak-fire-lawyer

Aggregate Limit	$5 million per calendar year	No aggregate limit
Eligibility	Taxpayer who incurs expenditures for replacing a home that was destroyed by fire in calendar years 2021 through 2023	Taxpayer who incurs expenditures for replacing a home that was destroyed by fire in calendar years 2021 through 2023
Eligible Expenditures	Gross expenditures for construction or manufactured or modular home	Gross expenditures for the construction of site-built homes
Eligibility Application	Application to the construction industries division of RLD	Application to the construction industries division of RLD
Proof Required	Sworn statement, contract with builder/manufacturer	Sworn statement, contract with builder, site-built homes
Carry Forward Period	Can be carried forward for three consecutive years	Can be carried forward for three consecutive years
Joint Filers	Only one-half of the tax credit each	Only one-half of the tax credit each
Allocation to Business Entities	Proportional to ownership interest	Proportional to ownership interest
Annual Reporting	Annual report by Tax & Rev	Annual report by Tax & Rev
Home Definition	Includes site-built, manufactured, modular homes	Only site-built homes
Excluded Compensations	Excludes compensation from the Federal Hermit's Peak/Calf Canyon Fire Assistance Act, from insurance or other sources of compensation.	Excludes compensation from the Federal Hermit's Peak/Calf Canyon Fire Assistance Act

By having two versions of this credit, this will present confusion for the taxpayer and will result in challenges to administering two credits under the same name for both RLD and Tax & Rev. The proposal cannot be implemented as is and it will be more effective if presented as amendments of the current credit. Tax & Rev suggests these amendments under "Technical Issues" below.

Technical Issues: Tax & Rev suggests that amendments be made to the current Home Fire Recovery Tax Credit versus repealing the current credit and replacing it with this credit. Taxpayers are potentially currently applying for this credit on their 2024 tax return due April 15, 2025. This will add to the confusion if the current credit is repealed and replaced. Tax & Rev suggest the following amendments to the current law given this proposal.

7-2-18.35. Home fire recovery 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, ~~2030~~ **[2031],** incurs qualified **[site-built]** home expenditures for a

home in New Mexico to replace a prior home of the taxpayer that was destroyed by a wildfire in calendar years 2021 through 2023 may claim a tax credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount equal to the qualified **[site-built]** home expenditures incurred by the taxpayer ~~without exceeding fifty thousand dollars ($50,000) per home~~. The tax credit provided by this section may be referred to as the "home fire recovery income tax credit".
B. A taxpayer who seeks to claim the tax credit shall apply for certification of eligibility from the construction industries division of the regulation and licensing department on forms and in a manner prescribed by that division~~. The aggregate amount of credits that may be certified as eligible in any calendar year is five million dollars ($5,000,000).~~ An application for certification shall be made no later than twelve months after the calendar year in which construction of the home is completed. Completed applications shall be considered in the order received. ~~If a taxpayer submits an application for the tax credit and the aggregate amount of certifications has been met for the calendar year, the application shall be placed at the front of a queue for certification in a subsequent calendar year.~~ Except as otherwise provided in Subsections F and G of this section, only one tax credit shall be certified per taxpayer.
C. An application for certification of eligibility shall include:
1. Proof that the taxpayer's prior home was destroyed by wildfire in calendar years 2021 through 2023, including a sworn statement by the taxpayer;
2. Proof that the taxpayer incurred expenditures for the construction of **[site-built]** home on the same property of the taxpayer's prior, wildfire-destroyed home, including a contract with a builder ~~or manufacturer~~;
3. A sworn statement by the taxpayer and the builder ~~or manufacturer~~ of the **[site-built]** home that the construction of the home has been completed and stating the date of its completion; and
4. Any additional information the construction industries division of the regulation and licensing department may require to determine eligibility for the tax credit.
D. If the construction industries division of the regulation and licensing department determines that the taxpayer meets the requirements of this section, the division shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. The construction industries division shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed-upon intervals.
E. A taxpayer issued a certificate of eligibility shall claim the tax credit in a manner required by the department within twelve months of being issued the certificate of eligibility.
F. That portion of the tax credit that exceeds a taxpayer's tax liability in the taxable year in which the tax credit is claimed shall not be refunded but may be carried forward for a maximum of three consecutive taxable years.
G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.
H. A taxpayer may be allocated the right to claim the tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.
I. The department shall compile an annual report on the tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.
J. As used in this section:
1. "home" means a dwelling designed for long-term habitation in which the taxpayer resides for a majority of the year ~~and is~~:
~~(a) constructed permanently on a taxpayer's property with a foundation and that cannot be moved; or~~

~~(b) a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and with the rules made pursuant thereto relating to permanent foundations; and~~

2. "qualified **[site-built]** home expenditures" means gross expenditures for the construction ~~or manufacture or repair~~ of a **[site-built]** home on the same property in New Mexico that a taxpayer's prior home was destroyed by a wildfire in calendar years 2021 through 2023, less any compensation related to home construction, ~~manufacture~~, or repair costs received pursuant to the federal Hermit's Peak/Calf Canyon Fire Assistance Act ~~or from insurance or other source of compensation.~~ **[; and]**

3. **["site-built home" means a home that is constructed permanently on a taxpayer's property with a foundation and that cannot be moved, and excludes a manufactured or mobile home.];**

Other Issues: Tax & Rev notes that this proposal presents different criteria that may treat taxpayers unequally depending on when they submit an application and potentially receive a credit certification. If the current annual cap has been reached, then taxpayers who have been placed in the queue for the subsequent calendar year, may retract their application and apply under the new criteria as it is more advantageous. This proposal also incentives or potentially rewards taxpayers who have waited to submit an application for the credit. Also treated unequally are taxpayers planning to replace their home with a manufactured or modular home, they will no longer be eligible for the credit.

Administrative & Compliance Impact: Tax & Rev cannot update forms, instructions, and publications and make information system changes if there are two credit with the same name. Per technical issues, this proposal can only work as an amendment to current law.

Related Bills: Conflicts with current law, Section 7-2-18.35 NMSA 1978