FISCAL IMPACT REPORT

		LAST UPDATED	03/08/25
SPONSOR	Dow/Henry/Martinez, A./Romero, A.	**ORIGINAL DATE**	02/22/25
SHORT TITLE	Retail Center Renovation Tax Credit	**BILL NUMBER**	House Bill 511
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Corporate Income Tax	$0	Up to ($15,000.0)	Up to ($15,000.0)	Up to ($15,000.0)	Up to ($20,000.0)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Tourism Department (NMTD)
Taxation and Revenue Department (TRD)

Agency Analysis was Solicited but Not Received From
New Mexico Mortgage Finance Agency (MFA)
New Mexico Counties (NMC)
New Mexico Municipal League (NMML)
Department of Finance and Administration / Local Government Division (DFA/LGD)
Economic Development Department (EDD)

SUMMARY

Synopsis of House Bill 511

House Bill 511 (HB511) proposes an income tax credit and a companion corporate income tax credit to be known as the “retail center renovation income tax credit." The credit would be available to a taxpayer that renovates a retail strip mall or other retail property in New Mexico. The credit is 10 percent of the cost of the renovation cost. The credit is limited to $1.5 million per project per year. Aggregate credits are limited to $15 million per year,

A taxpayer seeking to utilize the credit would request approval from the Economic Development Department (EDD). Within one year of the project’s completion, the taxpayer would submit documentation to EDD showing that at least 50 percent of the square footage of the retail property had been renovated. An eligible “retail center” establishment contains at least three retail or restaurant businesses. The renovation may include conversion of a retail center into a mixed-use development with a combination of commercial, office or residential spaces, or adaptive reuse of a retail center into multifamily residential housing.

The taxpayer cannot stack credits pursuant to this bill or with the federal new markets tax credit in section 45D of the Internal Revenue Code, which allows a tax credit for 39 percent of an investment in a qualified low-income community project organization.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted. The provisions of the bill are applicable to tax years beginning January 1, 2025. Projects must be completed by December 31, 2034, to be eligible for the credit. The tax credit is repealed effective December 31, 2035.

FISCAL IMPLICATIONS

Each project is limited to a credit of $1.5 million, representing renovation expenses of $15 million. Therefore, 10 or more projects would be creditable annually.

This bill creates or expands a tax expenditure. Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the actual costs (and benefits) of tax expenditures.

LFC has serious concerns about the substantial risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or action be postponed until the implications can be more fully studied.

SIGNIFICANT ISSUES

The Taxation and Revenue Department (TRD) comments:

> 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 thousand 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 percent 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

[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

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. TRD 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 TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Several cities have metropolitan redevelopment areas (MRAs), which may be locations that could benefit from this tax credit:

- Los Alamos has designated the East Downtown as a MRA focusing on revitalizing neglected areas, while the White Rock Town Center MRA addresses inadequate housing and aging infrastructure. These initiatives ensure public resources can support private projects, fostering tangible community benefits and revitalization.[3]
- The City of Santa Fe has designated the midtown campus area as an MRA.[4]
- The City of Albuquerque Metropolitan Redevelopment Agency oversees 22 Redevelopment Areas, each with unique plans that help spur reinvestment by incentivizing development and updating infrastructure.[5]
- The City of Farmington has designated the Historic Downtown, Civic Center

[3] https://www.losalamosnm.us/Government/Departments-and-Divisions/Community-Development/Planning-Division/Metropolitan-Redevelopment-Areas
[4] https://santafenm.gov/community-development/midtown-district-santa-fe
[5] https://www.cabq.gov/mra/redevelopment-areas

Neighborhood, the Healthcare Hub and the Animas Area as MRAs.
https://www.fmtn.org/1170/Metropolitan-Redevelopment-Area

This tax credit is not explicitly tied to economic development and could therefore potentially violate the Anti-Donation Clause of the New Mexico Constitution because the state is not receiving value for the expenditure of funds. A solution may be to restrict the credit to projects in MRAs. This would conform the tax credit to the spirit of the Anti-Donation Clause that allows a breach when economic development can be established.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to include this tax expenditure in the annual Tax Expenditure Report required by 7-1-84 NMSA 1978 that includes data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose. In this case, however, the purpose is not stated and the provisions could be abused.

ADMINISTRATIVE IMPLICATIONS

TRD would incur modest IT costs in adding a new credit to the personal income tax and corporate income tax returns. With 10 to 30 approvals a year, the recurring costs would be moderate.

EDD has no experience approving this type of tax credit or renovation project. This review will be updated when EDD responds.

TECHNICAL ISSUES

TRD 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 SUBSTANTIVE ISSUES

TRD suggests 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.

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.

- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate.

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	X	
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals. Clearly stated purpose Long-term goals Measurable targets	 X X X	Purpose not tied to economic development
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	Required by 7-1-84 NMSA 1978
Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date. Public analysis Expiration date	 X ✓	
Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure. Fulfills stated purpose Passes "but for" test	 X X	No purpose established.
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	X	
Key: ✓ Met ✗ Not Met ? Unclear		

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