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FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	De La Cruz/Terrazas/Gallegos/Duncan	**ORIGINAL DATE**	03/04/2025
SHORT TITLE	Hotel Renovation Tax Credit	**BILL NUMBER**	House Bill 506
		ANALYST	Faubion

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
PIT/CIT	-	**Up to ($60,000.0)**	**Up to ($60,000.0)**	**Up to ($60,000.0)**	**Up to ($60,000.0)**	Recurring	General Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	$0.0	$49.4	$0.0	$49.4	Nonrecurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
Taxation and Revenue Department
Economic Development Department

Agency Analysis was Solicited but Not Received From
Tourism Department

SUMMARY

Synopsis of House Bill 506

House Bill 506 proposes the creation of the hotel renovation personal income tax credit and the hotel renovation corporate income tax credit for qualifying costs for hotel renovation. The credit amounts to 30 percent of qualifying costs for hotels achieving LEED-NC silver certification or 20 percent for other qualifying renovations. To be eligible, taxpayers must apply for pre-certification and certification of eligibility through the Tourism Department (TD). The bill caps the total annual credits at $60 million and allows unused credits to be carried forward for five years. It also specifies eligibility requirements and defines qualifying costs, excluding new construction and expenses already claimed under federal new markets tax credits.

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 tax credit applies to taxable years 2025 through 2034.

FISCAL IMPLICATIONS

The bill imposes an annual cap of $30 million on the hotel renovation personal income tax (PIT) credit and another $30 million on the hotel renovation corporate income tax (CIT) credit, resulting in a maximum potential impact of $60 million on the general fund each year. Although the credit is set to expire at the end of tax year 2034, it is considered recurring since the sunset date extends beyond the current forecast period. Taxpayers with credits exceeding their tax liability can carry the remaining balance forward for up to five years.

Assessing the potential utilization of this credit is challenging due to limited data on hotel renovation investments. It is unclear how many hotels will undertake renovation projects or the scale of those projects. Additionally, LFC cannot accurately predict the level of investment taxpayers will make in renovations or the amount of credit they may claim against their income or corporate tax liabilities, as this depends on the effectiveness of the credit in incentivizing such projects. The credit is calculated as either 30 percent or 20 percent of the total renovation costs, depending on the hotel's LEED certification level. Due to these uncertainties, LFC estimates the impact of this credit at the credit cap.

The Taxation and Revenue Department (TRD) faced similar challenges in estimating the fiscal impact of this bill. Some unknown aspects do not allow TRD to estimate a precise fiscal impact. First, it is unknown how many hotels will initiate renovation projects and the size of those projects. Second, TRD 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 percent or 20 percent of the expenditure, depending on the hotel's LEED certification. Based on these limitations of information and ability to make assumptions, TRD 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 PIT and CIT.

TRD will update forms, instructions, and publications and make information system changes. This bill will have an impact on TRD's Information Technology Division (ITD) of approximately 4 months and 680 hours for an estimated staff workload cost of $45,315. Additionally, TRD'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).

SIGNIFICANT ISSUES

The potential of the hotel renovation tax credits lies in their ability to stimulate investment in the hospitality sector, driving economic growth and enhancing tourism infrastructure. By offering a financial incentive, the credits can encourage hotel owners to undertake significant renovation projects they might otherwise postpone. The emphasis on LEED-NC silver certification further encourages sustainable practices, positioning New Mexico as a leader in green tourism and aligning with broader environmental goals. If utilized effectively, the credits could lead to revitalized hotel properties, enhanced community appeal, and long-term economic growth.

The Economic Development Department (EDD) notes that this bill can incentivize investment in renovations for outdated, dilapidated, and shuttered hotels throughout the state, not only leading to job creation in the construction and hospitality sectors but could also contribute to the preservation and revitalization of our downtowns and MainStreet Districts. Shuttered hotels and vacant buildings are one of the biggest impediments to downtown revitalization, especially in rural communities where hotel accommodation can be extremely limited. There are also a number of shuttered or outdated historic hotels along I-40/Route 66 that could greatly benefit from renovations leading up to the Route 66 Centennial Celebration that will be drawing countless national and international visitors in 2026. By modernizing accommodation and increasing the number of rooms available to travelers, it can enhance tourism appeal, increase visitor spending, number of nights stayed, local tax revenues, and overall economic activity in the region.

EDD also notes the tax credits, however, may favor larger hotel operators with greater access to capital and a higher tax liability, potentially disadvantaging smaller businesses that may struggle to finance renovations or may not see a benefit in the tax credit incentive. The tax credit, for instance, is non-refundable, meaning smaller hotel operators may not have enough tax liability to claim the full benefits of the credit over the allotted five years they have to claim the credit.

The size of the hotel renovation tax credit poses a significant risk of waste if not carefully monitored. One of the primary concerns is the possibility of over-subsidizing projects that would have occurred without the tax incentive. If hotel owners were already planning to renovate, the credit would effectively be a windfall rather than an encouragement for new investment. This would result in a substantial revenue loss for the state without generating additional economic activity, contradicting the intended purpose of the incentive.

Additionally, the high percentage of qualifying costs—30 percent for LEED-NC silver-certified hotels and 20 percent for others—could lead to an over-allocation of state funds. The generous credit rate might incentivize hotel owners to inflate renovation costs or undertake lavish upgrades that do not necessarily contribute to economic growth or increased tourism. This scenario creates the risk of wasteful spending, as the credit could subsidize luxury enhancements rather than necessary renovations that improve the overall visitor experience or energy efficiency.

TRD notes the following 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, 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. 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. 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.

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 real costs (and benefits) of tax expenditures.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually in the tax expenditure budget regarding the data compiled from the reports from taxpayers taking the credit.

ADMINISTRATIVE IMPLICATIONS

There will be administrative costs for both the Tourism Department (NMTD) and the Taxation and Revenue Department to administer this credit.

TECHNICAL ISSUES

TRD notes the following technical issues:

> These credits are separate under Income Tax and Corporate Income Tax acts. However, it is unclear whether the Tourism Department 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. TRD 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).

TRD 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 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. TRD 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 NMTD. TRD 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 NMTD 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 NMTD 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. TRD 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.

In Section 1(C), a hotel shall apply for pre-certification of their project from NMTD. TRD 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.

OTHER SUBSTANTIVE ISSUES

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.	✗	No record of an interim committee hearing can be found.
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	✗	There are no stated purposes, goals, or targets.
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	The credit must be reported publicly in the TER. The credit does have an expiration date.
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	✓	
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	?	There are no stated purposes, goals, or targets with which to measure effectiveness or efficiency.
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met ✗ Not Met ? Unclear		

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