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FISCAL IMPACT REPORT

		LAST UPDATED	3/08/25
SPONSOR	Henry/Dow	**ORIGINAL DATE**	2/22/25
SHORT TITLE	Abandoned Building Revitalization Tax Credit	**BILL NUMBER**	House Bill 472
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

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

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the 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
EDD		**$100.0**	**$100.0**	**$200.0**	Recurring	**General Fund**

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

Relates to House Bill 511

Sources of Information

LFC Files

<u>Agency Analysis was Received From</u>
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

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

SUMMARY

Synopsis of House Bill 472

House Bill 472 (HB472) proposes a corporate income tax credit to be known as the “abandoned building revitalization corporate income tax credit." The credit would be available to a corporation that renovates an abandoned building in New Mexico. The credit is 25 percent of the cost of the renovation cost. The credit is limited to $700 thousand per taxpayer per year.

Aggregate credits are limited to $20 million per year,

A taxpayer seeking to utilize the credit would prepare a budget and a notice of intent to renovate for approval by the Economic Development Department (EDD). Within one year of the project's completion, the taxpayer would submit documentation to EDD showing that the actual cost of the renovation was between 80 percent and 125 percent of the amount estimated in the notice of intent to renovate. EDD would certify the credits in the order received and ensure the annual total was less than the $20 million cap. Applications in excess of the annual cap would be cancelled and not eligible for award the next year. The credits may be sold or otherwise transferred or amounts in excess of the taxpayer's liability could be carried forward for five years.

An "abandoned building" means a structure or part of a structure in New Mexico that has been unoccupied and nonoperational for income-producing purposes for at least five years prior to the filing of a notice of intent to rehabilitate.

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, 2035, to be eligible for the credit. The tax credit is repealed effective December 31, 2036.

FISCAL IMPLICATIONS

Each taxpayer is limited to a credit of $700 thousand annually. Therefore, 28 projects or more would be creditable annually. The cap of $20 million represents a maximum of $80 million in rehabilitation expenditures. LFC has no information on plans, but the recent increase in metropolitan redevelopment areas/agencies (MRAs) may be correlated with this request.

Los Alamos has designated the East Downtown MRA focusing on revitalizing neglected areas, while the White Rock Town Center MRA addresses inadequate housing and aging infrastructure. These initiatives will use public resources to support private projects.[1]

The city of Santa Fe has designated the midtown campus area as an MRA.[2]

The city of Albuquerque Metropolitan Redevelopment Agency (MRA) oversees 22 Redevelopment Areas, each with unique plans that help spur reinvestment by incentivizing development and updating infrastructure.[3]

The city of Farmington has designated the Historic Downtown, Civic Center neighborhood, the Healthcare Hub and the Animas Area as MRAs.[4] However, the bill does not mention MRAs but would allow any project to be creditable.

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[1] https://www.losalamosnm.us/Government/Departments-and-Divisions/Community-Development/Planning-Division/Metropolitan-Redevelopment-Areas
[2] https://santafenm.gov/community-development/midtown-district-santa-fe
[3] https://www.cabq.gov/mra/redevelopment-areas
[4] https://www.fmtn.org/1170/Metropolitan-Redevelopment-Area

Neither LFC nor the Taxation and Revenue Department (TRD) can estimate the likely take up of this credit. TRD notes:

> Some unknown aspects do not allow TRD to estimate a precise fiscal impact. First, it is unknown how many abandoned buildings will be rehabilitated, or the size of those projects. Second, TRD cannot anticipate how much taxpayers will invest in rehabilitation projects and therefore how much credit they may potentially claim against their corporate tax liability. Finally, the credit is dependent on the total cost of the rehabilitation project, as it is calculated as 25 percent of the rehabilitation expenses. Based on these limitations, TRD determined the fiscal impact would be negative but unknown. Per the bill, the maximum aggregate amount of credits available in any fiscal year would not exceed $20 million for credits claimed under CIT.

LFC notes that rehabilitation construction, even if incentivized with this credit, would be gross receipts taxable. About 1/3rd of the 25 percent tax credit would be returned to the state and local governments as gross receipts tax.

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.

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

EDD points out that renovating abandoned buildings is a valid and useful economic development strategy.

> Abandoned commercial buildings once housed vibrant storefront commercial businesses that at one point generated a profit. Examples of these commercial or retail uses include “five and dime” stores, offices, and restaurants. Now vacant, many of these commercial buildings are either historic, architecturally significant, or located within designated historic districts. These buildings contribute to a community’s downtown center and main street’s unique character and its potential to revitalize. The challenge for building owners and potential property developers is that these vacant commercial buildings, which were once banks, hotels, department stores, churches, and theaters, may be costly to adapt, rehabilitate and repurpose for other uses.
>
> When commercial buildings stay vacant, their declining status leads to blight, discourages economic development, diminishes property values, and can act as fire hazards and magnets for crime. Some vacant commercial property owners use their buildings for storage, in the same way a residential neighbor might use their broken car or RV for storage. In many cases, the building is “under-utilized,” in that it does not economically perform as a commercial structure would in generating income for the business/property owner and gross receipts tax

for the local government.

Properties that are vacant over time also become the victims of deferred maintenance, leading to problems with the building's roof, foundation, electrical, plumbing, and HVAC systems. Under such conditions, buildings become dilapidated and irreparable and can be declared a public nuisance, or even demolished, further burdening taxpayers with the demolition and the cost for the remediation of vacant lots. As such, local governments are often forced to prioritize whether to undertake the costs associated with removal of these abandoned buildings, and remediation of derelict properties or providing for the community's basic needs, such as sanitation, water, street repairs, fire and police protection.

The New Mexico Economic Development Department (EDD) through New Mexico MainStreet Capital Outlay allocations from the Legislature is currently making targeted investments in upgrading the public infrastructure and streetscapes in main street and art & cultural districts as commercial centers with severe safety and infrastructure issues deter private reinvestment. These targeted infrastructure investments along with the passage of HB472 are likely to stimulate economic development by encouraging the rehabilitation of abandoned buildings and putting these vacant buildings back to productive use, which can revitalize blighted areas, attract new businesses, and increase property values. The tax credit also incentivizes private investment in underutilized properties, potentially leading to job creation in construction, real estate, and local businesses. Additionally, rehabilitated buildings can expand commercial activity, generate higher tax revenues, and improve community aesthetics and safety.

The provision allowing credit transferability also greatly increases accessibility for property owners and small developers who may not immediately benefit from the tax credit or don't have enough tax liability to claim the full benefits of the credit over the allotted five years. However, as the certification for the credit is granted in the order applications are received (first come, first serve basis) it may disproportionately favor larger developers with greater access to financing, making it more difficult for smaller businesses or local property owners to utilize the program. Additionally, rising property values following rehabilitation could lead to higher rents, potentially displacing small businesses or low-income residents in revitalized areas.

TRD sustains EDD's point of view:

The bill aims to stimulate the rehabilitation of abandoned buildings in New Mexico, which will impact the construction industry in the state. These rehabilitation projects will boost general economic activity, employment, and tax collection under different programs. Additionally, the rehabilitation of these buildings will impact the surrounding communities by attracting businesses, entrepreneurs, and residents to the area, contributing to the overall aesthetic appeal and improving safety, and encouraging economic growth and community engagement. However, the full extent of both the costs and benefits of this credit is unknown.

According to data from the New Mexico EDD, the construction industry is the second largest contributor to the gross receipts tax base. The New Mexico Department of Workforce Solutions reports that New Mexico's construction industry employed just under 57 thousand workers in 2023, contributing over $3.6 billion in total wages that contribute to personal income tax revenue. Construction is the state's seventh-largest industry sector in terms of employment.[1] 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 rehabilitation project as a result of this credit if they have little or no New Mexico tax liability to offset. During a large rehabilitation project, a taxpayer 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 be available if the taxpayer has positive taxable income in future years. It may also be sold or transferred at its full value.

To apply for this credit, the taxpayer must file taxes under CIT. However, taxpayers filing pursuant to the Personal Income Tax (PIT) would not be eligible for the credit provided by this bill. The requirement of being a CIT filler to claim the credit creates horizontal inequality in the tax code among the businesses that make up the sector since those companies filing under PIT cannot claim the tax incentive.

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 important to this bill as 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

LFC staff note that as mentioned in the "Fiscal Implications" section, this credit is not focused. If this were one tool to aid metropolitan redevelopment areas main street and art & cultural districts, that could potentially justify the use of taxpayer dollars to create private profit. Without this focus, however, a private developer could form a number of single project corporations and specialize in purchasing abandoned properties that could be renovated for under $2.8 million. With the $700 thousand tax credit, the project would pay off rapidly.

This tax credit is not explicitly tied to economic development and could therefore potentially violate the Anti-Donation Clause of the New Mexico Constitution (Article IX, Section 14) 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 corporate income tax. With an estimated 28 approvals a year, the recurring costs would be moderate.

EDD may require one additional staff member to fulfill the duties and responsibilities outlined in the bill, with costs estimated at $100,000, including employee benefits.

TECHNICAL ISSUES

This tax credit is not tied to economic development and provides for public funds to pay for private development. The remedy may be to restrict the credit to projects in metropolitan redevelopment areas or main street and art & cultural districts. This would ensure the tax credit, while a benefit to private developers, provides the public good of economic development.

Conflict, Duplication, Companionship, Relationship

This bill relates to House Bill 511, which creates a tax credit for retail center renovations.

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.	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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