FISCAL IMPACT REPORT

BILL NUMBER: House Bill 77

SHORT TITLE: Affordable Housing Revitalization Tax Credit

SPONSOR: Reps. Dow and Gonzales/Sen. Nava

LAST UPDATE: ______ **ORIGINAL DATE:** 1/28/2026 **ANALYST:** Graeser/Gray/Faubion

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
CIT	$0	Up to ($100,000.0)	Up to ($100,000.0)	Up to ($100,000.0)	Up to ($100,000.0)	Recurring	General Fund

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

Sources of Information

LFC Files

Agency or Agencies Providing Analysis
Housing New Mexico/New Mexico Finance Authority
State Ethics Commission

Agency or Agencies That Were Asked for Analysis but did not Respond
Taxation and Revenue Department

SUMMARY

Synopsis of House Bill 77

House Bill 77 (HB 77) creates a new affordable housing revitalization corporate income tax credit for the redevelopment of abandoned buildings and vacant lots into affordable housing in New Mexico.

A taxpayer may claim a credit for qualified rehabilitation expenses incurred before January 1, 2037. The credit equals 30 percent of rehabilitation expenses for properties vacant for more than two years but less than five years, capped at $2 million per taxpayer, or 40 percent for properties vacant five years or longer, capped at $4 million per taxpayer. To qualify, at least 15 percent of the residential units must be affordable housing, defined as serving households at or below 85 percent of area median income, and actual expenses must fall within 80 to 125 percent of estimated costs submitted in advance.

Projects must be pre-certified and certified by the New Mexico Mortgage Finance Authority

(MFA). There is an annual statewide cap of $100 million in certified credits, with no more than $50 million available for non-rural projects; applications are approved on a first-come, first-served basis until the cap is reached. Credits are nonrefundable, may be carried forward for up to five years, and may be sold or transferred to another taxpayer.

Provisions in this bill apply to taxable years beginning on or after January 1, 2026 and are repealed on January 1, 2038.

FISCAL IMPLICATIONS

The bill is expected to reduce general fund revenue by up to $100 million per year because it authorizes up to $100 million annually in transferable corporate income tax credits, which can be sold or transferred to taxpayers with sufficient tax liability to fully use them. Transferability means the credits are not constrained by the original developer's tax capacity and are therefore far more likely to be fully claimed. As a result, the statutory cap functions as a practical ceiling on annual revenue loss rather than a theoretical maximum: once credits are certified, they represent a near-certain reduction in corporate income tax collections, whether claimed immediately or over the allowable carryforward period.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. 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

Housing NM estimates that New Mexico needs between 30,000 and 40,000 units to address the joint issues of homelessness and affordable housing. This bill could incentivize the redevelopment of vacant and abandoned properties into residential housing by offsetting a significant share of rehabilitation costs through a corporate income tax credit. By tying eligibility to properties that have been vacant for multiple years and requiring that at least 15 percent of units be affordable, the bill attempts to target projects that may otherwise be financially challenging while promoting the reuse of existing infrastructure and reducing blight. The ability to transfer credits may further enhance feasibility by allowing developers to monetize the credit and attract private capital to projects.

The bill also directs a substantial share of the benefit toward rural communities by limiting no more than half of the annual credit allocation to non-rural areas, effectively reserving at least $50 million per year for rural projects. This structure may help address housing shortages in smaller communities that often face higher development costs, weaker financing markets, and limited access to traditional housing subsidies.

Several provisions of the bill raise implementation and policy concerns. The definitions of "vacant lot" and "abandoned building" rely on a two-year vacancy threshold, which could encompass properties that are unused but not truly distressed, as well as undeveloped greenfield land that has simply not yet been built upon. Because New Mexico is not land-constrained, this relatively short vacancy period may cause the credit to apply broadly to projects that would otherwise proceed without public subsidy, including conventional residential development. As a result, the incentive may extend well beyond redevelopment of genuinely blighted or abandoned properties.

The bill also provides limited guardrails around the affordable housing requirement. While 15 percent of units must be designated as affordable, the bill does not specify how affordability would be enforced over time, such as through rent restrictions, resale price limits, or duration requirements. For example, under the federal Low-Income Housing Tax Credit program, developers must limit rents and tenant incomes based on HUD-set area median income thresholds and comply with these restrictions for at least 15 to 30 years, with ongoing monitoring and the risk of credit recapture if requirements are violated. Without clear compliance or monitoring standards, it is unclear how long units built with this credit must remain affordable or how affordability would be verified after project completion. Given the relatively low share of required affordable units, the credit may primarily subsidize market-rate development, with only a small portion of units serving low- or moderate-income households.

From a fiscal and tax-policy perspective, the bill may also raise questions under a “but-for” test, which asks whether the subsidized activity would occur absent the incentive. Because the credit is broadly available and transferable, it may incentivize projects that were already financially viable, reducing general fund revenue without materially increasing housing supply. In addition, corporate income tax data in New Mexico indicate relatively limited tax liability associated with housing construction activity. Many developers operate as pass-through entities—such as partnerships or S corporations—rather than C corporations subject to the corporate income tax. This structure increases the likelihood that credits would be transferred to unrelated corporations with higher tax liability, further weakening the connection between the subsidy and actual affordable housing outcomes.

Additional considerations include the administrative complexity of certifying, tracking, and monitoring transferable credits, the potential for uneven geographic uptake despite the rural allocation cap, and the interaction of this credit with existing federal, state, and local housing incentives. Taken together, these factors may complicate efforts to ensure the credit is well-targeted, cost-effective, and aligned with clearly defined affordable housing objectives.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill’s requirement to report annually the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The New Mexico Mortgage Finance Authority will serve as the review and approving body for administering the tax credit which may require additional staff or programs.

The Taxation and Revenue Department will need to update forms and procedures for processing this credit.

TECHNICAL ISSUES

The standard definition of low- and moderate-income households is 80 percent of area median income (AMI). This bill instead sets eligibility at 85 percent of AMI, adjusted for family size, which is higher than commonly used thresholds. The U.S. Department of Housing and Urban Development (HUD) publishes income limits at 30, 50, and 80 percent of AMI, but not at 85 percent. LFC recommends on page 5, line 8, delete "eighty-five" and insert "eighty."

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 a committee hearing was 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	✗	No stated purpose, 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 credits are required to be publicly reported in the TER. There is 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 purpose or goals by 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		

JF/BG/LG/dw/ct