

Proposal Summary

The proposal creates paired personal and corporate income tax credits equal to the federal low-income housing tax credit allowed per taxable year under 26 U.S.C. 42, claimable for six taxable years beginning when the housing project is placed in service. The mortgage finance authority would issue a conditional reservation and then a certificate of eligibility, which may be sold or transferred. Aggregate certifications are capped at \$10 million per calendar year across both credits, and claims end with taxable years beginning before January 1, 2037 and after January 1, 2027.

Issues

How the Credit Works. A project that qualifies for the federal low-income housing tax credit would receive a state credit equal to the federal credit allowed each year, for six years. The credit is nonrefundable, carries forward six years, and further credits are no longer paid if the federal credit is recaptured under federal disqualification rules. A taxpayer claiming the existing affordable housing tax credit may not claim this low-income housing investment tax credit.

The federal low-income housing tax credit (LIHTC) is the federal government's primary tool for encouraging the construction of affordable rental housing. Each year every state receives a finite allocation of credits, which in New Mexico are awarded by Housing New Mexico (formerly the New Mexico Mortgage Finance Authority). The credit comes in two forms. The competitive "9 percent" credit is awarded through the scoring process in the state's annual Qualified Allocation Plan (QAP). The "4 percent" credit is generally paired with tax-exempt bond financing and is not awarded competitively. The labels refer to the approximate annual credit rate applied to a project's qualified basis (generally the project cost of the low-income units) over the ten-year credit period, set so that the credits' present value equals about 70 percent of basis for new construction without other federal subsidies (9 percent) or about 30 percent for acquisitions and bond-financed projects (4 percent).

The credit is calculated on a project's "qualified basis," which generally includes construction and rehabilitation costs attributable to the low-income units plus the developer fee but excludes land and predevelopment expenses. Projects in federally designated Qualified Census Tracts and Difficult Development Areas receive a 30 percent basis boost. To qualify, a project must reserve at least 20 percent of its units for households at or below 50 percent of area median income, or at least 40 percent for households at or below 60 percent. Rents on those units are capped, and the restrictions run through a 15-year compliance period plus an extended-use period, for at least 30 years in total. Noncompliance can trigger recapture of credits already claimed.

Low-Income Housing Investment

**Sponsor(s): Sen.
Berghmans**

**202#: 234637.2,
October 14, 2026**

One-Year Cost
Up to \$10M general fund

Five-Year Cost
Up to \$50M general fund

Impact by Fund (in millions)

Fund	1 Year	5 Year
General Fund Total	(\$10 M)	(\$50M)

After an award, developers sell the credits to investors, who use them to offset federal tax liability over ten years. The resulting equity reduces the debt needed to build the project, which typically layers with a mortgage and state gap funding. For the 2027 round, applications are due in January 2027 and the Housing New Mexico board is scheduled to approve awards in May 2027, after which the agency monitors compliance for the life of the restrictions.

Federal Credit Interactions. The federal low-income housing tax credit does not directly reduce state general fund revenue, but projects often also draw on state-administered gap financing, such as the New Mexico Housing Trust Fund, and on other subsidies. This proposal creates a state LIHTC credit equal to the federal credit, in effect doubling the current federal LIHTC value for developers in New Mexico. These projects could still be paired with state subsidies other than the affordable housing tax credit.

Transferability. Certificates may be sold, exchanged or otherwise transferred, with notice to the department within ten days. This matters fiscally as well as structurally. Affordable housing developers are frequently partnerships with little New Mexico income tax liability, so a nontransferable credit would go partly unused. Therefore, developers typically sell their credits and use the proceeds to fund the project, often through intermediaries called syndicators. As a result of this process, the government forgoes a full dollar of tax revenue but developers receive only about 85 to 90 cents per credit dollar. The loss in value is partly related to the risk and time values of money taken on by the credit purchaser, but some value is also lost in transaction costs with syndicator fees estimated at 2 to 5 percent per project¹.

Other states. At least 32 states and D.C. have a state-level LIHTC program, according to a February 2024 National Conference of State Legislatures (NCSL) summary². Only some of them are a match tied to the federal credit amount. This proposal appears to have the most generous match among the states with a 100 percent LIHTC credit match for six years, with other states providing 25 percent of the federal credit (District of Columbia) to 50 percent of the federal credit (Hawaii, Missouri) with Oklahoma offering a 100 percent federal credit match but only for two years.

Comparison to Approved Guidelines

The proposal clearly identifies and targets low-income housing development by tying eligibility to federal credit thresholds. Eligibility runs off federal qualification under 26 U.S.C. 42, the definition of a housing project states rent and income restrictions, and the authority must certify each project before any credit is claimed. The draft includes an expenditure cap, a sunset of 2037, and taxpayer reporting requirements and inclusion in the tax expenditure budget.

The proposal does not estimate the size and scope of the problem, describe why a tax credit is the right instrument, does not include expected outcomes and does not have a measure of success. Reporting is partly met as the proposal captures utilization and cost but not outcomes and provides for collection without analysis.

Against the committee's tax principles, the proposal rates well on administrability, because it borrows federal qualification and an administering agency that already runs the federal program, and on accountability relative to most drafts, because it has a cap, an end date and a reporting requirement. The tension is with efficiency as the proposal subsidy could exceed the total cost of the project as the match for 6 years on the "9 percent" credit would exceed the project's cost basis in present value terms.

¹ <https://www.gao.gov/assets/gao-17-285r.pdf>

² https://archive.legmt.gov/content/Committees/Interim/2023-2024/Local-Government/Meetings/240320-March_20_2024/04.030-NCSL_State.LIHTC.Programs.pdf

Fiscal Impacts

The proposal could reduce recurring general fund revenue by approximately \$10 million at full take-up rates, and \$50 million over five years. There is no impact on local government funds.

The Expenditure Cap. Subsection E caps the credits that may be certified in a calendar year at \$10 million. Because credits can be claimed over a six year period, the full cost is unlikely to be realized in the first year, but rather grow to reach around \$10 million a year, by the 6th year. It is possible payments exceed or fall short of \$10 million each year, dependent on developer timing of credit claims.

Other Considerations

Other State Comparisons. The state credit attaches to federal qualification and adds no New Mexico condition beyond the rent and income restrictions the federal program already imposes. It therefore does not direct housing to particular communities, income bands or project types beyond what the federal allocation already does. Some other states impose additional affordability or building requirements to be eligible for state matching credits.

Transferable Credit Sales Cost More Than Benefits Provided.

Transferable credits typically sell at a discount, so a developer that sells a \$1 million certificate receives less than \$1 million while the cost to the state is at the full amount. The difference is the cost of converting the credit to cash including the cost of intermediaries and does not reach the housing project. This is inherent to transferable credits and means the housing benefit is smaller than the cost to the state.

Distributional Analysis. Research by Dr. Evan Soltas, an economist at Princeton, suggests the benefits of LIHTC are shared between developers and renters with much of the benefit not reaching tenants. Using application data from 22,241 LIHTC applications across 40 states, Soltas estimates that households receive about 31 percent of the program's public tax support in the form of reduced housing cost, mostly through rent discounts of about 12 percent below market rates on subsidized units. The research finds developers capture about 44 percent of the gains as profit, and another 25 percent is spent on the costs of competing for credits and administrative hurdles. Dr. Soltas also finds that LIHTC

1	Clearly Stated Purpose	Does the proposal identify the problem to be solved?	✓
		Does it explain why a tax policy change is the right solution?	✗
		If an economic development incentive, is the purpose included in the language of the proposal itself?	N/A
2	Theory of Change or Logic Model	Does the proposal explain how the tax change will achieve the intended outcome?	✓
		Does it identify the taxpayer behavior it is intended to influence?	✓
3	Measurable Goals and Targets	Does the proposal identify expected outcomes?	✗
		Does it identify affected populations or activities?	✓
		Does it explain how success will be measured?	✗
		Does the proposal estimate the impact on the general fund?	⊘
4	Fiscal Impact Analysis	Does it estimate the impact on the local government and other funds?	N/A
		Does it identify the impacts as recurring or nonrecurring?	✓
5	Expiration Date (Sunset)	Does the proposal include a delayed repeal?	✓
6	Expenditure Cap	If feasible, does the proposal include an annual or aggregate cap on total cost?	✓
		Does the proposal clearly identify eligible taxpayers or activities?	✓
7	Effective Targeting	Does it limit benefits to those populations or activities necessary to achieve the state purpose?	✓
		Does the proposal require sufficient reporting on utilization, cost, and outcomes?	⊘
8	Reporting Requirements	Does it provide for data collection, sharing, and analysis?	⊘
		Does it identify performance measures and targets?	✗

projects displace unsubsidized construction that would otherwise have occurred. Only about two of every ten LIHTC units are net additions to the housing stock, which implies a federal cost of roughly \$1 million per net new unit. Soltas concludes that a voucher program could deliver similar benefits to households at about 25 percent less fiscal cost. He also notes that LIHTC tenants have substantially lower incomes than the likely occupants of comparable market-rate units, so the subsidy is modestly progressive and effective in providing low-income households with access to areas previously unattainable.

Potential Questions

Design and Targeting

- Is \$10 million the right size? What volume of qualifying projects does the authority expect, and what financing gap would the state credit close that federal credits and existing state resources do not?
- The credit attaches to federal qualification and adds no New Mexico condition. Should it, through the qualified allocation plan, prioritize rural placement, deeper affordability, or preservation of existing units?
- Transferable credits sell at a discount, so the housing project receives less than the state forgoes. Would a state program that provides a direct cash match to developers deliver more housing per dollar of cost?
- Claims end with taxable years beginning before January 1, 2037, which truncates projects certified in the final 5 years. Should the end date run from certification instead, so that every certified project receives its full six years?
- Why six years, when the federal credit period is ten and other states range from five to ten?
- If a project receives a 9 percent credit and the state provides an equal match in this credit proposal, does that provide total state and federal tax credits in excess of the present value of the project's qualified basis? If so, why should credits exceed the present value of the qualified basis cost of the project?

Administration and Evaluation

- The authority already reports units produced and affordability levels for the federal program. Should the proposal require the same reporting for the state credit?
- Should the proposal require an evaluation before the 2037 end date?