

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 3, 2024

Bill: HB-261

Sponsor: Representative Rod Montoya

Short Title: Affordable Housing Tax Credit Change

Description: This bill increases the value of an investment voucher that may be claimed as a tax credit toward the Affordable Housing Tax Credit from 50% of an investment to 100%.

Effective Date: Not specified; 90 days following adjournment (May 15, 2024). Applicable to investment vouchers issued pursuant to the Affordable Housing Tax Credit Act on or after January 1, 2024.

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	(\$360 - \$5,215)	(\$930 - \$5,330)	(\$1,815 - \$5,450)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Tax & Rev reviewed the historical claims and credit amounts of the Affordable Housing Credit. Between tax year 2013 and tax year 2021, the number of taxpayers claiming the credit has increased by 46%, reaching 202 taxpayers in tax year 2021. In that same time period, the aggregate credit amounts claimed increased by 226%. The average aggregated credit amount claimed for tax years 2018 to 2021 is \$640 thousand, with the average credit per taxpayer of \$3,500. This is well under the statutory cap on the credit that grows each year based on a formula of the consumer price index and New Mexico population. In tax year 2021 the statutory limit was \$5.1 million. In tax year 2021, the cap grew to \$5.5 million. An additional factor constraining the amount of claims for the credit is that projects must be approved by the New Mexico Mortgage Finance Authority (MFA). According to MFA’s website, five sites are currently approved and in development. In June 2023, MFA announced \$53 million of funding towards five new projects.¹

Due to the expansion of approved projects and the doubling of the credit to 100% of investment, Tax & Rev assumes a lower bound as the average aggregate credit amount of \$640 thousand per tax year growing by twice the annual rate between 2013 and 2021. The upper bound assumes the increased incentive reaches the statutory limit. The statutory limit is grown by 2% per year, the average annual growth prior to 2022, removing inflationary growth in 2022 and 2023. This range assumes that the MFA will continue to expand the number of approved affordable housing projects.

Policy Issues: Affordable housing availability is a problem facing New Mexico and states nationwide. This credit supports the efforts of funding projects approved by MFA. This credit has been established since 2005 and has shown steady growth in the number of taxpayers claiming the credit and the amount of credit issued. This credit demonstrates a cooperative government-agency and private investment initiative that has supported investment in affordable housing.

¹ <https://housingnm.org/about-mfa/news/mfa-awards-53-million-for-affordable-workforce-housing-construction-and-rehabilitation-across-new-mexico>

While tax incentives can support specific industries or promote desired social and economic behaviors, the growing number of such incentives complicates the tax code. Introducing more tax incentives has two main consequences: (1) it creates special treatment and exceptions within the code, leading to increased tax expenditures and a narrower tax base, which negatively impacts the General Fund; and (2) it imposes a heavier compliance burden on both taxpayers and Tax & Rev. Increasing complexity and exceptions in the tax code is generally not in line with sound tax policy.

Additional analysis of Section 7-2-34 NMSA 1978 can be found in the 2023 New Mexico Tax Expenditure Report.²

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will need to make information system changes and update forms, instructions, publications. These changes will be included in annual tax year changes.

² See <https://www.tax.newmexico.gov/forms-publications/>
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