

**Bill Analysis and Fiscal Impact Report
Taxation and Revenue Department**

January 27, 2026

Bill:
SB-92

Sponsor:
Senators Michael Padilla and Cindy Nava

Short Title:
Construction Materials Gross Receipts

Description:
This bill creates a new deduction in the Gross Receipts and Compensating Tax Act for the sale of construction materials and labor used for the development of affordable multifamily residential housing for households with low or moderate income. The housing must be a multifamily residential housing with more than three household units. To qualify for the deduction, the project must be for households whose current annual income is 80% or below the area median income for the geographic area in which the housing will be built as determined by the U.S. Department of Housing and Urban Development (HUD). The deduction requires reporting in the tax expenditure report and has a sunset date of July 1, 2033.

Effective Date, Applicability, and Contingency Language:
July 1, 2026

Taxation and Revenue Department Analyst:
Pedro Clavijo

Estimated Revenue Impact*

| FY26 | FY27 | FY28 | FY29 | FY30 | Recurring or Non-Recurring | Fund(s) Affected |
|-------------|-------------|-------------|-------------|-------------|-----------------------------------|-------------------------|
| -- | (3,200) | (3,200) | (3,300) | (3,400) | R | General Fund |
| -- | (4,300) | (4,400) | (4,500) | (4,600) | R | Local Governments |

* In thousands of dollars. Parentheses () indicate a revenue loss.

Methodology for Estimated Revenue Impact:

The Taxation and Revenue Department (Tax & Rev) used the University of New Mexico’s Bureau of Business and Economic Research (BBER) January 2026 forecast on total multifamily housing units authorized in New Mexico and the statewide median price of sold units through December 2025.¹ Then, Tax & Rev assumed that labor and construction materials costs for residential construction are approximately 60% of the total construction costs to compute the fiscal impact². The analysis assumes that 50% of the total multifamily housing developments are allocated to affordable housing. 50% is a typical threshold that developers use to measure financial viability and ensure that even large-scale multifamily projects have significant income-restricted units. The fiscal impact employs a statewide effective gross receipts tax (GRT) rate and includes the effects of this deduction on the 1.225% distributions to municipalities, as the majority of construction is assumed to be in municipalities.

¹ <https://www.zillow.com/home-values/41/nm/>

² <https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf>

Tax & Rev cannot predict whether the proposed deductions will be enough to stimulate the construction of new housing projects and place the State above its current trend, so the analyses assume the forecasted trajectory under BBER's current housing construction forecast.

Policy Issues:

Residential housing in New Mexico faces several significant challenges when it comes to cost. These challenges are interconnected and impact affordability, accessibility, and the overall stability of the housing market. One of the main drivers of high home prices is the lack of available housing supply. There are not enough homes being built to meet the demand. This is due to a combination of factors, including restrictive zoning laws, a shortage of skilled labor in the construction industry, and rising costs of labor and materials. When supply does not keep up with demand, prices inevitably rise.

The cost of homes is closely tied to increasing rents. Median rents in New Mexico increased by 60% from 2017 to 2024, compared to the national rate of 27%. The average price of a New Mexico home rose even faster during that time, increasing by 70%. High prices have forced individuals to live in substandard conditions or face high rental rates that drain their resources. The limited rental supply has made it even more difficult for low-income and middle-class families to find affordable housing. From 2017 to 2024, homelessness in New Mexico increased by 87%, more than double the nation's 40% rise. Thus, the proposed deduction may help increase the number of units and revert the troubling trend of the housing system across New Mexico.

While tax incentives can support specific industries or promote desired social and economic behaviors, the growing number of incentives complicate 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. As noted under technical issues, these deductions will present several more options to taxpayers in the residential housing market. Without clear language in the statute, as to the order deductions that must be taken, taxpayers will determine the most advantageous deductions to apply. Thus, local governments may not see the hold harmless payments matching overall deductions taken in the taxing district. The complexity of deductions for residential construction will require additional outreach and education for taxpayers and more complex auditing of compliance.

Finally, legislation should seek to ensure that the benefit of this deduction be reflected in lower housing prices and not absorbed by businesses themselves. Businesses might take the deductions or see their construction labor costs reduced but still charge a final price for a new house in line with a tight housing market, having no impact on affordability or the median home price. The final effect of this bill is not clear.

Technical Issues:

[Section 1] Page 1, Line 22 - Page 2, Line 2. The seller of "construction material" may take the deduction if the construction materials are used for the purpose of developing affordable housing. There is no mechanism for the seller to know, or to have a good-faith basis, that the material will be used to develop affordable housing after the sale occurs. To ensure administrability, the deduction should require the use of a nontaxable transaction certificate (NTTC) or alternative evidence. Existing construction-related GRT deductions rely on NTTCs to verify eligibility and provide an audit trail. Without this mechanism, Tax & Rev cannot independently verify that the buyer is a qualifying grantee or that the materials and labor are used in a qualifying affordable multifamily housing project. Tax & Rev recommends inserting the following on page 2 line 16: "D. The deduction provided by this section may be claimed only if the buyer delivers to the seller a nontaxable transaction certificate or alternative evidence acceptable to the secretary establishing

that the buyer is a qualifying grantee pursuant to the Affordable Housing Act and that the construction materials or labor will be used in an affordable housing multifamily residential housing project.”

Page 1, Line 23. “Construction material” is not defined. See Section 7-9-51 NMSA 1978 for a suggested definition.

Page 2, Line 8-11. The bill requires reporting in the Tax Expenditure Report (TER) and meeting the reporting requirements of Section 7-1-84 NMSA 1978, but it does not require separate reporting. Without separate reporting of the deduction by taxpayers on their GRT returns, the deduction would be indistinguishable from several other deductions and could not be monitored or reported accurately in the TER. Tax & Rev recommends inserting the following on page 2 line 16: “E. A taxpayer claiming the deduction provided by this section shall separately state the amount deducted in the manner required by the department.”

Page 1, lines 21-25 and Page 2, line 1. Low or moderate income is determined using HUD reported data for the geographic area in which the household is located as adjusted for family size. For FY25, a family of four’s low-income threshold is \$79,600 in Santa Fe. However, in Farmington, NM that same family of four’s low-income threshold is \$60,500. Adjusting for family size and geographic area will make the deduction difficult for taxpayers to determine if the construction goods are subject to the deduction, and difficult for the department to administer. To ensure projects qualify, Tax & Rev suggests that affordable housing projects be certified by the New Mexico Housing Authority and that certificate serve as the required documentation of eligibility (perhaps eliminating the need for an NTTC).³

Other Issues:

[Section 1] Page 2, Line 14 - Page 3, Line 3. Note, in tax context, the word “primarily” ... means “of first importance or principally” and does not mean “substantial”. *Mun. Bond Corp. v. C.I.R.*, 341 F.2d 683 (8th Cir. 1965).

There are currently two deductions for construction businesses under Section 7-9-51 and 7-9-52 NMSA 1978. Tax & Rev would suggest amending these deductions rather than creating new deductions. This would allow this industry to use the same NTTC type.

Administrative & Compliance Impact:

Tax & Rev will update forms, instructions, regulations, and publications.

³ https://www.huduser.gov/portal/datasets/home-datasets/files/HOME_IncomeLmts_State_NM_2025.pdf