FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 97
SHORT TITLE: Tech "Qualified Expenditure"
SPONSOR: Padilla
LAST UPDATE: **ORIGINAL DATE:** 1/26/2026 **ANALYST:** Gray/Torres

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
GRT	$0.0	($59,600.0) to ($278,980.0)	($50,900.0) to ($186,980.0)	($41,600.0) to ($190,180.0)	($41,950.0) to ($1,115,530.0)	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
Taxation and Revenue Department
Economic Development Department
State Ethics Commission
New Mexico Attorney General

SUMMARY

Synopsis of Senate Bill 97

Senate Bill 97 (SB97) amends the Technology Jobs and Research and Development Tax Credit Act to expand the definition of "qualified expenditure" to include expenditures for property owned by a municipality or county when used in connection with an industrial revenue bond (IRB) project. Under current law, expenditures for property owned by a municipality or county in an IRB project are explicitly excluded from eligibility. The bill removes that exclusion, allowing taxpayers participating in IRB-financed projects to claim technology jobs and research and development (R&D) tax credits for qualifying expenditures associated with publicly owned property.

In New Mexico, IRBs are a device to eliminate a company's property and gross receipts tax obligations. This is accomplished by putting the ownership of development in the name of a public entity. The bonds issued by the entity to finance construction, improvements, or other expenditures are all purchased by the company that will occupy the development. The lease payments made by the company go to pay off the bonds.

In addition to allowing IRB projects, the bill:

- Increases the credit's carryforward provision from three years to 10 years, increasing the credit amount that can be claimed by businesses, and
- Adds a transferability provision, meaning that a business that previously did not have enough tax liability to claim the credit can now sell their credit to other businesses with New Mexico tax liability.

The bill makes national laboratories ineligible to claim the credit.

The provisions of the bill are applicable to tax years beginning 2026.

FISCAL IMPLICATIONS

The bill is expected to reduce general fund revenue by at least $59.6 million in FY27 and up to $278 million in FY27.

This analysis provides a lower and upper bound of fiscal impacts given the major shift in tax policy contemplated by SB97. Like analysis from the Taxation and Revenue Department (TRD), this analysis considers recently announced IRB projects to estimate a fiscal impact.

For the lower bound estimate, this analysis estimates the impact of extending the credit's benefits to current IRB recipients and to two large IRB beneficiaries: Intel Corporation and Pacific Fusion. The lower bound estimate is summarized in table 1 below.

For the upper bound estimate, this analysis includes the lower bound components and adds the impact of new "induced" IRB activity, the impact of providing transferability to current beneficiaries, and adds the impact of extending the credit to Project Jupiter, the proposed Doña Ana County data center. The upper bound estimate is summarized in table 2.

Detailed methodology for each component is provided below.

Table 1. Lower Bound Recurring General Fund Revenue Impact by Component
(dollars in thousands)

	Project/ Estimate Component	FY27	FY28	FY29	FY30
1	Current IRBs	$25,500	$25,500	$25,500	$25,500
2	Pacific fusion	$20,500	$11,600	$2,200	$2,250
3	Intel	$13,600	$13,800	$13,900	$14,200
4	**Total**	**$59,600**	**$50,900**	**$41,600**	**$41,950**

Table 2. Upper Bound Recurring General Fund Revenue Impact by Component
(dollars in thousands)

	Project/ Estimate Component	FY27	FY28	FY29	FY30
1	Current beneficiaries	$8,280	$8,280	$8,280	$8,280
2	New IRBs	$2,800	$2,800	$2,800	$2,800
3	Current IRBs	$25,500	$25,500	$25,500	$25,500
4	Project Jupiter	$208,300	$125,000	$137,500	$1,062,500
5	Pacific fusion	$20,500	$11,600	$2,200	$2,250
6	Intel	$13,600	$13,800	$13,900	$14,200
7	**Total**	**$278,980**	**$186,980**	**$190,180**	**$1,115,530**

Lower Bound Estimate Methods

New IRBs. Capital investment, spending, and payroll data from a sample of recent IRBs suggest that the average IRB project could increase expenditures by about $4.2 million for each new IRB.[1] It is assumed each year there will be 10 new IRBs approved by local governments, and that 6.6 percent—twice the share of eligible R&D spending in the economy—will utilize the increased credit benefit.

Pacific Fusion. Pacific Fusion, a commercial energy company developing magnetic fusion technology, announced a large research and manufacturing campus in Albuquerque in 2025. The company will receive tax relief on its facilities pursuant to an IRB. Based on public filings, this analysis estimates that Pacific Fusion will have increased its payroll to $35 million by 2028 and will conduct $776 million in construction over two years. This analysis assumes that 100 percent of expenditures are eligible for the credit, and there will be additional operational expenditures ongoing in 2027 and beyond equal to 25 percent of the payroll costs.

Pacific Fusion Revenue Impact Estimate
(dollars in thousands)

Calendar Year	2026	2027	2028	2029	2030
Announced payroll expenditures	$11,119	$25,282	$35,726	$35,366	$36,073
Announced construction expenditures	$388,300	$388,300	$0	$0	$0
Operational expenditures	$0	$6,321	$8,931	$8,841	$9,018
All expenditures	$399,419	$419,903	$44,657	$44,207	$45,091
Eligible expenditures share	100%	100%	100%	100%	100%
Base credit	$20,000	$21,000	$2,200	$2,200	$2,300
Additional credit	$6,100	$9,400	$2,200	$0	$500
Total credit	$26,100	$30,400	$4,400	$2,200	$2,800
Fiscal Year	FY27	FY28	FY29	FY30	FY31
Fiscal Year Amount	**$20,500**	**$11,600**	**$2,200**	**$2,250**	**$1,150**

Intel. Intel Corporation, a semiconductor manufacturer in Rio Rancho, has benefited from tax relief under an IRB since 1980. This analysis assumes existing annual payroll expenses of $284 million, reflecting the reported 3,100 employees earning an average $90 thousand annual salary, which would grow by 2 percent annually. In addition, Intel committed to spending $100 million a year pursuant to its 2024 IRB extension. This analysis assumes 50 percent of the total expenditures would be eligible.

Intel Revenue Impact Estimate
(dollars in thousands)

Fiscal Year	2026	2027	2028	2029	2030
Payroll expenditures	$284,580	$290,272	$296,077	$301,999	$308,039
Additional expenditures	$100,000	$100,000	$100,000	$100,000	$100,000

[1] See page 5 for the sample figures.

Total Expenditures	$384,580	$390,272	$396,077	$401,999	$408,039
Share eligible	50%	50%	50%	50%	50%

Basic credit	$9,600	$9,800	$9,900	$10,000	$10,200
Additional credit	$3,700	$3,800	$3,900	$3,900	$4,000
Total	**$13,300**	**$13,600**	**$13,800**	**$13,900**	**$14,200**

Upper Bound Estimate Methods

In addition to each of the components in the lower bound estimate (table 1), this analysis includes additional components to capture the full array of general fund risks.

Current TJRDC beneficiaries. This analysis first estimates the impact of the carryforward extension and the transferability extension among current technology jobs and research and development credit (TJRDC) claimants. This analysis uses data from the *Tax Expenditure Report*, the Bureau of Economic Analysis (BEA), and *Quarterly Census of Employment and Wages* (QCEW) to estimate the distribution of total expenditure amounts among claimants. Currently, refundability is determined based on a sliding scale of expenditure amounts. The bill makes the credit entirely transferable, which is expected to double the expenditure amount for current claimants, equal to $8.3 million in FY27.

Project Jupiter. In September 2025, the Doña Ana County Commission authorized the issuance and sale of IRBs for Project Jupiter, a data center development. According to project documents, the development intends on making an "initial capital investment of at least $50 billion" in the project's first five years. The project "is committed to creating a minimum of 750 new full-time equivalent jobs and 50 part-time jobs within three years of commencing operation of the facility" and construction employment is expected to total 2,500 jobs during the construction period between 2025 and 2028.[2] It is assumed that 50 percent of the operations of the data center would meet the definition of R&D, and only 5 percent of announced expenditures are made per year for the first three years before increasing to meet total expenditures by the end of FY31. Based on these assumptions, the subsidy provided to Project Jupiter contemplated by SB97 would reduce general fund revenues by $208.3 million per year until FY30, when the total subsidy value would skyrocket to nearly $1.1 billion.

Project Jupiter Revenue Impact Estimate (dollars in thousands)				
FY	2027	2028	2029	2030
Total payroll	$125,000,000	$125,000,000	$143,750,000	$37,500,000
Assume proportion of total project expenditures*	5.0%	5.0%	5.0%	42.5%
Expenditures*	$2,500,000,000	$2,500,000,000	$2,500,000,000	$21,250,000,000
Eligible expenditures share	50%	50%	50%	50%

Base credit	$125,000,000	$125,000,000	$125,000,000	$1,062,500,000

[2] For the source of these figures, refer to the memorandum of understanding on page 508 of the agenda packet for the Dona Ana County Commission's September 19th meeting.
*Note that total expenditures are assumed to be $50 billion over five years, per IRB materials.

Additional credit	$83,333,300	$0	$12,500,000	$0
Total credit	**$208,333,300**	**$125,000,000**	**$137,500,000**	**$1,062,500,000**

Average IRBs Cost

This analysis uses IRB materials from five recent IRB announcements, including total capital expenditures, capital deployment timelines, and payroll estimates. These are multiplied by the assumed number of eligible IRB projects to estimate the costs for new and existing IRBs.

Average IRB Revenue Impact Estimate
(dollars in thousands)

Project	BlueHalo	SolAero	Ebon Solar	Castellion	Array Technologies	Average
IRB Amount	$16,175	$72,600	$942,000	$125,000	$49,500	$241,055
Capital Investments	$33,000	$72,600	$942,000	$101,000	$49,500	$239,620
Capital deployment length	1	4	6	2	2	3
Annual Capital	$33,000	$18,150	$157,000	$50,500	$24,750	$56,680
Annual Payroll	$5,760	$5,580	$12,147	$13,500	$1,785	$7,754
Eligible Share	100%	100%	100%	100%	100%	100%
Estimated basic credit amount	$1,650	$908	$7,850	$2,525	$1,238	$2,834
Estimated additional credit amount	$825	$454	$3,925	$1,263	$619	$1,417
Total credit amount	**$2,475**	**$1,361**	**$11,775**	**$3,788**	**$1,856**	**$4,251**

Definition of Research

Statute currently defines "qualified research" as research:

(1) That is undertaken for the purpose of discovering information:
   a. That is technological in nature and
   b. The application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) Substantially all the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste, or cosmetic or seasonal design factors.

If an R&D expenditure is an allocation of a larger expenditure, then the taxpayer must use the same cost accounting method used in its other business activities. TRD does not appear to provide any additional rulemaking regarding this definition, and there is limited case law on the subject. Accordingly, this analysis applies a broad understanding of the types of expenditures that would qualify.

For example, Project Jupiter purportedly is owned by a coalition of businesses engaged in artificial intelligence development. The data processing capabilities provided by the data center would clearly meet the first definitional prong [Section 7-9F-3(I)(1) of state statute] but it is less clear whether, and to what extent, it would meet the second [7-9F-2(I)(2)].

Analysis from TRD specifically omits data centers from the fiscal impact, but the agency goes on

to note the bill "may be amended to make that more explicit." This existing definitional weakness presents major deficiencies for the bill and presents a tremendous general fund risk should the legislation advance.

Timing Impact

SB97 changes both the carryforward time period (from three years to 10 years) and the refundability allowance, shifting from fully refundable only for small businesses to fully transferable for all businesses. In addition to making the credit more generous for larger businesses, these provisions introduce uncertainty to the timing of state expenditures. This analysis assumes that state expenditures will occur shortly after the associated business activity. However, because of the timing uncertainty, costs to the state could stack into a single year, creating significant exposure greater than the annual costs represented in the tables on page one.

TRD Estimate

TRD estimates the bill will reduce general fund revenues by $10 million in FY26 and FY27, and $58.9 million in FY28. The agency includes impacts from the Pacific Fusion project and Intel, but does not include an estimate for existing IRBs, new IRBs, or Project Jupiter, which explains the significant gap between the two estimates.

SIGNIFICANT ISSUES

According to economic development literature, tax incentives have the lowest return on investment (ROI) of many economic development investments[3] because they subsidize all eligible businesses, not just those who otherwise would not have chosen to relocate, expand, or continue business in New Mexico. Cost-effective approaches support only those businesses who would not have engaged in a business activity but for an intervention or investment.

This analysis suggests that 99 percent of the expenditure increase associated with SB97 will subsidize businesses already located—or already committed to locating—in New Mexico. Accordingly, SB97 is unlikely to pass the "but for" test, which asks if subsidized activity would not have happened *but for* the subsidy.

New Mexico's existing assets—such as two national laboratories, research universities, and federal funding opportunities—may already make it an attractive location for research and development activity. If companies are likely to invest due to these factors alone, the credit may not be the decisive factor in their decision-making.

SB97 represents a policy shift in the treatment of IRB-financed projects within New Mexico's tax credit framework. IRBs already provide a substantial incentive by allowing projects to avoid property and gross receipts taxation through public ownership. Allowing R&D credits to be claimed on expenditures for publicly owned IRB property layers an additional state tax subsidy onto projects that are already receiving preferential treatment, raising equity and tax-expenditure

[3] For example, Bartik (2022) finds that the cost per job of business tax incentives was an estimate $296 thousand, compared with $97 thousand for infrastructure investments, $54 thousand for customized job training, and $50 thousand for manufacturing extension services.

stacking concerns.

Transferability introduces the secondary market for credits, which may improve liquidity but also increases the likelihood that credits function as an indirect state expense. While transferability can help small or early-stage firms monetize credits, it may also shift the primary beneficiaries toward larger, profitable firms purchasing credits at a discount. This means for every dollar paid by the state through a credit, the impact on the targeted economic activity is less than the dollar paid by the state because the target group sells the benefit at a discount. This reduces the economic efficiency of the public policy intervention and increases the cost greatly.

The 10-year carryforward further amplifies the long-term fiscal exposure of the state by committing future revenue capacity without clear visibility into the volume of credits that may be outstanding at any given time.

Finally, the bill does not include a sunset date or aggregate cap, which limits legislative ability to reassess the credit's effectiveness relative to its fiscal cost.

Tax Expenditure Assessment

In 2025, LFC began a review of economic development tax expenditures to estimate the economic and fiscal impacts of tax deductions and credits. In its review of the technology jobs and research and development tax credit, LFC estimated the economic return on investment (ROI) was 92 percent, meaning for every $1 spent on the credit, the New Mexico economy grows by 92 cents. The estimated annual return in revenue is negative 81 percent, meaning that for every $1 spent, the state forgoes 81 cents and recaptures 19 cents of state tax revenue.

In addition, the assessments consider whether tax expenditures meet LFC tax policy principles. The credit does not have an expenditure cap or an expiration date. While targeting rural businesses may help distressed areas, the credit could be more effective by differentiating based on need, demographics, or economic activity. The credit targets export-based industries.

The report and methodology can be accessed online.

Agency Analysis

Agency analysis from TRD and the Economic Development Department (EDD) supports the proposed expansion of SB97.

The State Ethics Commission (SEC) analysis notes the addition of transferability triggers additional scrutiny under the Anti-Donation Clause, Article IX, Section 14, of the New Mexico Constitution. The agency writes:

> A refundable and transferrable tax credit, as SB97 would create, operates to create a kind of property right—whereby the recipient of the tax credit can sell it or otherwise transfer it to another taxpayer, who then holds the right to redeem it and receive money from the state. As such, refundable, transferable tax credits create a market in which the state makes payments not only to persons who are incentivized to meet the conditions necessary to obtain a tax credit, but also to persons who did not perform the statutory conditions required to receive the credit but simply engage in rent-seeking—i.e., purchasing the eligibility for refundable tax credits at a discount with the intention to

redeem those credits for their full amount. Refundable and transferable tax credits, therefore, raise both Anti-Donation concerns regarding the transfer of public funds to private individuals outside of the operation of a contract and, moreover, additional concerns regarding the transfer of public funds in circumstances where the transferee is purely engaged in rent-seeking.

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 records were found indicating the bill meets the vetted standard.**
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	✓	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	
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	✘	The bill lacks an 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	? ✘	The 2025 LFC tax expenditure assessment on the credit found it had met the stated purpose, but it is unclear whether or to what extent the extension fulfills the stated purpose or passes the but for test.
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met ✘ Not Met ? Unclear		

IT/BG/sgs/hg/sgs