

HOUSE BILL 298

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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## AN ACT

RELATING TO TAXATION; CREATING THE RAIL INFRASTRUCTURE  
CORPORATE INCOME TAX CREDIT; ALLOWING THE TAXATION AND REVENUE  
DEPARTMENT AND THE DEPARTMENT OF TRANSPORTATION TO SHARE  
INFORMATION CONCERNING RAIL INFRASTRUCTURE CORPORATE INCOME TAX  
CREDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"NEW MATERIAL RAIL INFRASTRUCTURE CORPORATE INCOME TAX  
CREDIT. --

A. For taxable years prior to January 1, 2036, a taxpayer that is a railroad that incurs qualified reconstruction or replacement expenditures or qualified new rail infrastructure expenditures may claim a tax credit against .233646.1

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1 the taxpayer's tax liability for that taxable year imposed  
2 pursuant to the Corporate Income and Franchise Tax Act. The  
3 tax credit provided by this section may be referred to as the  
4 "rail infrastructure corporate income tax credit".

5 B. The purpose of the rail infrastructure corporate  
6 income tax credit is to incentivize incremental expansions or  
7 improvements to rail infrastructure that would not reasonably  
8 occur but for the availability of the credit, increase freight  
9 capacity, reduce highway externalities and enhance the  
10 competitiveness of New Mexico businesses.

11 C. The amount of credit that may be allowed  
12 pursuant to this section shall be equal to fifty percent of a  
13 taxpayer's qualified reconstruction or replacement expenditures  
14 or qualified new rail infrastructure expenditures; provided  
15 that:

16 (1) for qualified reconstruction or  
17 replacement expenditures, the amount of tax credit shall not  
18 exceed an amount equal to the product of five thousand dollars  
19 (\$5,000) multiplied by the number of miles of railroad track  
20 owned or leased in the state by the taxpayer as of the close of  
21 the taxable year; and

22 (2) for qualified new rail infrastructure  
23 expenditures, the amount of tax credit shall not exceed one  
24 million dollars (\$1,000,000) for each new rail-served customer  
25 project of the taxpayer.

1                   D. A taxpayer that seeks to claim a tax credit  
2 provided by this section shall apply for a certificate of  
3 eligibility from the department of transportation during the  
4 taxable year in which, or within three months after, the  
5 qualified reconstruction or replacement expenditures or  
6 qualified new rail infrastructure expenditures are incurred.  
7 The application shall include the number of miles of railroad  
8 track that the taxpayer owns or leases in New Mexico, a  
9 description of the amount of qualified reconstruction or  
10 replacement expenditures or qualified new rail infrastructure  
11 expenditures completed, supporting expenditure detail and the  
12 amount of tax credit requested.

13                   E. A taxpayer shall apply for certification of  
14 eligibility for the credit provided by this section from the  
15 department of transportation on forms and in the manner  
16 prescribed by that department. The total annual aggregate  
17 amount of credits that may be certified in any calendar year is  
18 six million dollars (\$6,000,000). Completed applications shall  
19 be considered in the order received. Applications for  
20 certification received after this limitation has been met in a  
21 calendar year shall not be approved for that calendar year, but  
22 shall be considered for certification in the following calendar  
23 year. The department of transportation shall publish on its  
24 website on a regular basis the number of rail infrastructure  
25 corporate income tax credits that have been certified in each

1       calendar year.

2                   F. If the department of transportation determines  
3       that a taxpayer is a railroad and meets the requirements to  
4       claim a tax credit pursuant to this section, that department  
5       shall issue to the taxpayer a dated certificate of eligibility  
6       providing the amount of the tax credit for which the taxpayer  
7       is eligible and the taxable year in which the credit may be  
8       claimed. The department of transportation shall provide the  
9       taxation and revenue department with the certificates of  
10      eligibility issued pursuant to this subsection in an electronic  
11      format at regularly agreed-upon intervals.

12                  G. A certificate of eligibility issued pursuant to  
13       this section may either be submitted by the taxpayer with that  
14       taxpayer's return or be sold, exchanged or otherwise  
15       transferred to another taxpayer for the full value of the  
16       credit. The parties to such a transaction shall notify the  
17       department of the sale, exchange or transfer within ten days of  
18       the sale, exchange or transfer. The notification shall include  
19       the names, addresses and taxpayer identification numbers of the  
20       parties to the transfer, the amount of the credit being  
21       transferred, the year that the credit was originally allowed to  
22       the transferring taxpayer and the taxable year or years for  
23       which the credit may be claimed.

24                  H. To receive a tax credit provided by this  
25       section, a taxpayer shall claim the credit on forms and in the

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1 manner prescribed by the department within twelve months  
2 following the calendar year in which the certificate of  
3 eligibility was issued. The claim shall include a certificate  
4 of eligibility issued pursuant to this section.

5                   I. That portion of a tax credit that exceeds a  
6 taxpayer's tax liability in the taxable year in which the tax  
7 credit is claimed shall not be refunded but may be carried  
8 forward for a maximum of five consecutive taxable years.

9                   J. The department of transportation shall analyze  
10 the effectiveness and cost of the credit and whether the credit  
11 is performing the purpose for which it was created and shall  
12 report the number of jobs retained or created as a result of  
13 the credit and any other information required by the  
14 legislature to aid in evaluating the effectiveness of the  
15 credit.

16                   K. The credit provided by this section shall be  
17 included in the tax expenditure budget pursuant to Section  
18 7-1-84 NMSA 1978, including the total annual aggregate cost of  
19 the credit.

20                   L. The department of transportation may promulgate  
21 rules necessary for administering the provisions of this  
22 section.

23                   M. As used in this section:

24                   (1) "qualified new rail infrastructure  
25 expenditures" means gross expenditures for new rail

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1 infrastructure incurred by a taxpayer, including the new  
2 construction of industrial leads, switches, sidings, rail  
3 loading docks and transloading structures involved with  
4 servicing new customer locations or existing customer  
5 expansions adjacent to a railroad located in New Mexico;

6 (2) "qualified reconstruction or replacement  
7 expenditures" means gross expenditures for maintenance,  
8 reconstruction or replacement of railroad infrastructure,  
9 including track, roadbed, bridges, industrial leads, sidings  
10 and track-related structures in New Mexico that are owned or  
11 leased by a taxpayer claiming the credit provided by this  
12 section. "Qualified reconstruction or replacement  
13 expenditures" does not include expenditures used to generate a  
14 federal tax credit or expenditures funded by a state or federal  
15 grant;

16 (3) "railroad" means a railroad that is  
17 classified by the federal surface transportation board as a  
18 class two or class three railroad located wholly or partly in  
19 New Mexico or an owner or lessee of a rail siding, yard track,  
20 industrial spur or industry track located in New Mexico on or  
21 adjacent to a railroad; and

22 (4) "rail-served customer project" means  
23 construction of railroad infrastructure to provide rail  
24 service."

25 SECTION 2. Section 7-1-8.8 NMSA 1978 (being Laws 2019,  
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1 Chapter 87, Section 2, as amended) is amended to read:

2 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE  
3 AND LEGISLATIVE AGENCIES.--An employee of the department may  
4 reveal confidential return information to the following  
5 agencies; provided that a person who receives the information  
6 on behalf of the agency shall be subject to the penalties in  
7 Section 7-1-76 NMSA 1978 if the person fails to maintain the  
8 confidentiality required:

9 A. a committee of the legislature for a valid  
10 legislative purpose, return information concerning any tax or  
11 fee imposed pursuant to the Cigarette Tax Act;

12 B. the attorney general, return information  
13 acquired pursuant to the Cigarette Tax Act for purposes of  
14 Section 6-4-13 NMSA 1978 and the master settlement agreement  
15 defined in Section 6-4-12 NMSA 1978;

16 C. the commissioner of public lands, return  
17 information for use in auditing that pertains to rentals,  
18 royalties, fees and other payments due the state under land  
19 sale, land lease or other land use contracts;

20 D. the secretary of health care authority or the  
21 secretary's delegate under a written agreement with the  
22 department:

23 (1) the last known address with date of all  
24 names certified to the department as being absent parents of  
25 children receiving public financial assistance, but only for

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1 the purpose of enforcing the support liability of the absent  
2 parents by the child support enforcement division or any  
3 successor organizational unit;

4 (2) return information needed for reports  
5 required to be made to the federal government concerning the  
6 use of federal funds for low-income working families;

7 (3) return information of low-income taxpayers  
8 for the limited purpose of outreach to those taxpayers;  
9 provided that the health care authority [department] shall pay  
10 the department for expenses incurred by the department to  
11 derive the information requested by the health care authority  
12 [department] if the information requested is not readily  
13 available in reports for which the department's information  
14 systems are programmed;

15 (4) return information required to administer  
16 the Health Care Quality Surcharge Act and the Health Care  
17 Delivery and Access Act; and

18 (5) return information in accordance with the  
19 provisions of the Easy Enrollment Act;

20 E. the department of information technology, by  
21 electronic media, a database updated quarterly that contains  
22 the names, addresses, county of address and taxpayer  
23 identification numbers of New Mexico personal income tax  
24 filers, but only for the purpose of producing the random jury  
25 list for the selection of petit or grand jurors for the state

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1       courts pursuant to Section 38-5-3 NMSA 1978;

2               F. the state courts, the random jury lists produced  
3 by the department of information technology under Subsection E  
4 of this section;

5               G. the director of the New Mexico department of  
6 agriculture or the director's authorized representative, upon  
7 request of the director or representative, the names and  
8 addresses of all gasoline or special fuel distributors,  
9 wholesalers and retailers;

10              H. the public regulation commission, return  
11 information with respect to the Corporate Income and Franchise  
12 Tax Act required to enable the commission to carry out its  
13 duties;

14              I. the state racing commission, return information  
15 with respect to the state, municipal and county gross receipts  
16 taxes paid by racetracks;

17              J. the gaming control board, tax returns of license  
18 applicants and their affiliates as provided in Subsection E of  
19 Section 60-2E-14 NMSA 1978;

20              K. the director of the workers' compensation  
21 administration or to the director's representatives authorized  
22 for this purpose, return information to facilitate the  
23 identification of taxpayers that are delinquent or noncompliant  
24 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
25 1978;

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1                   L. the secretary of workforce solutions or the  
2 secretary's delegate, return information for use in enforcement  
3 of unemployment insurance collections pursuant to the terms of  
4 a written reciprocal agreement entered into by the department  
5 with the secretary of workforce solutions for exchange of  
6 information;

7                   M. the New Mexico finance authority, information  
8 with respect to the amount of municipal and county gross  
9 receipts taxes collected by municipalities and counties  
10 pursuant to any local option municipal or county gross receipts  
11 taxes imposed, and information with respect to the amount of  
12 governmental gross receipts taxes paid by every agency,  
13 institution, instrumentality or political subdivision of the  
14 state pursuant to Section 7-9-4.3 NMSA 1978;

15                  N. the superintendent of insurance, return  
16 information with respect to the premium tax and the health  
17 insurance premium surtax;

18                  O. the secretary of finance and administration or  
19 the secretary's designee, return information concerning a  
20 credit pursuant to the Film Production Tax Credit Act;

21                  P. the secretary of economic development or the  
22 secretary's designee, return information concerning a credit  
23 pursuant to the Film Production Tax Credit Act;

24                  Q. the secretary of public safety or the  
25 secretary's designee, return information concerning the Weight

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1 Distance Tax Act;

2 R. the secretary of transportation or the  
3 secretary's designee, return information concerning the Weight  
4 Distance Tax Act and return information concerning rail  
5 infrastructure corporate income tax credits for which  
6 eligibility is certified or otherwise determined by the  
7 secretary or the secretary's designee;

8 S. the secretary of energy, minerals and natural  
9 resources or the secretary's designee, return information  
10 concerning tax credits or deductions for which eligibility is  
11 certified or otherwise determined by the secretary or the  
12 secretary's designee;

13 T. the secretary of environment or the secretary's  
14 designee, return information concerning tax credits for which  
15 eligibility is certified or otherwise determined by the  
16 secretary or the secretary's designee; and

17 U. the secretary of state or the secretary's  
18 designee, taxpayer information required to maintain voter  
19 registration records and as otherwise provided in the Election  
20 Code."

21 **SECTION 3. APPLICABILITY.**--The provisions of this act  
22 apply to taxable years beginning on or after January 1, 2026.