

## Proposal Summary

The proposal allows industrial revenue bond (IRB) projects to stack the technology jobs and research and development tax credit (TJRDTTC) with IRB tax benefits. Specifically, the proposal expands 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 ineligible for the TJRDTTC. The proposal removes that exclusion, allowing taxpayers with an IRB issued after January 1, 2025 to claim the credit.<sup>1</sup>

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.

In addition to allowing IRB projects, the proposal:

- makes the credit fully refundable;
- excludes national laboratories from claiming the credit; and,
- excludes data centers from claiming the credit.

## Issues

IRBs allow counties and municipalities to issue bonds on behalf of private companies, primarily as a mechanism to establish a public ownership structure that enables the transfer of public-entity tax advantages. Projects benefit from property tax abatements and exemptions from gross receipts tax.

**Legislative History and Overview.** The credit was created in 2000 to provide a favorable tax climate for technology-based businesses engaging in research, development and experimentation and to promote increased employment and higher wages within those fields. A taxpayer who conducts qualified research may claim a basic credit equal to 5 percent of qualified expenditures against the state portion of GRT, compensating tax, or withholding tax. The credit is doubled to 10 percent when the taxpayer’s facility is in a rural area. Taxpayers may claim an additional 5

<sup>1</sup> Note that the proposal changes the definition of “qualified expenditure” to exclude expenditures on property owned by a county or municipality in connection with an IRB “issued or renewed after January 1, 2025.” This analysis assumes the intent of the proposal is to exclude expenditures on IRB property issued prior to January 1, 2025 or renewed after January 1, 2025.

### Tech Jobs & R&D Credit IRB

**Sponsors: Representatives  
Dixon/Hernandez, J**

**202#: 234355.3  
October 15, 2026**

**One-Year Cost  
\$67.0M general fund**

**Five-Year Cost  
\$264M general fund**

#### Impact by Fund (in millions)

| Fund                | 1 Year        | 5 Year         |
|---------------------|---------------|----------------|
| <b>General Fund</b> | <b>\$67.0</b> | <b>\$264.0</b> |

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percent credit (or 10 percent in rural areas) against income tax by raising payroll by \$75 thousand for every \$1 million in qualified expenditures. Currently, the credit is fully or partially refundable if qualified expenditures are less than \$5 million. The credit has been amended twice since its inception. In 2015, the credit was increased from four percent to five percent of the amount of qualified expenditures. The 2015 change set forth a new mechanism for claiming the basic credit and excluded local option gross receipts tax from the taxes the basic credit could be claimed against. Two changes in 2019 and 2025 made technical language changes.

A bill like this proposal was introduced in the 2026 legislative session as House Bill 27 and Senate Bill 97. A substitute bill was introduced in the house commerce and economic development committee, but HB27 did not advance further in the committee process.

**Bonds Issuance Timing.** The proposal seeks to limit credit stacking to only IRBs that were issued after January 1, 2025. This raises several issues.

First, this provision may be considered by some economists to introduce inequity into the tax code. Horizontal equity is a core tenet of tax policy that holds that similar taxpayers should be treated similarly under the tax code. The forward applicability provision in the proposal erodes that principle by favoring some businesses over others. For example, on September 16, 2024, the Albuquerque city council [approved](#) a \$300 million IRB for Kairos Power, a commercial energy company, whose facility may have qualified for the expanded credit under the proposal. One year later, Albuquerque city council [approved](#) a \$776 million IRB for a Pacific Fusion, a commercial energy company, which would qualify for the expanded credit under the proposal. Under the principles of horizontal equity, these two taxpayers should be treated equally. Under the proposal, Kairos Power will not qualify for the TJRDTC but Pacific Fusion will.

This also highlights the distortionary impacts of economic development tax incentives. It may be that Kairos Power's activity would not have occurred without the incentive stacking provided by the proposal, while Pacific Fusion's activity would have occurred regardless. It could also be the case that Kairos Power will eventually produce a larger economic benefit than Pacific Fusion, and that the state investment should be targeted toward IRBs created *before* 2025, not *after*.

Second, the provision is unlikely to constrain activity. Consider Intel. In 2024, the corporation extended its lease agreement with Sandoval County through 2034 to ensure that the IRB issued in 2004 would continue. Instead, the county could have chosen to simply issue a new IRB to ensure that Intel would benefit from the proposal's incentive stacking allowance. Upon enactment of this legislation, Intel could choose to modify and receive new IRB issuance.

The proposal seeks to restrain this action by disallowing "renewal" of IRBs. The 2024 decision by Sandoval County to extend the Intel IRB may or may not be considered a "renewal" of the IRB. For example, the IRB reissued in 2019 had not expired, but the county issued a new IRB for a new investment tranche.

The Taxation and Revenue Department may need to define the term "renewal" compared with "issued," as neither of these terms are defined in statute. Further, a corporation may rightly claim that an IRB be issued on an adjacent parcel of land, for a new structure, or for equipment for a new project. IRB statute is exceedingly permissive and allows local governments to largely define the scope and terms of issuance.

This analysis assumes this language is not sufficient to constrain the activity of corporations to maximize tax benefits. While a corporation would take on additional costs, the benefits would be significantly greater. This analysis assumes that all businesses are profit maximizers and would pursue additional, new, or updated IRB issuance that would satisfy the requirements of the proposal to minimize tax liability.

## Comparison to Approved Guidelines

The proposal did not meet committee guidelines in some of the submission criteria. The criteria are designed as an example of national best practices in tax policy design. Like current statute, some questions remain regarding measurements of success and guardrails like a sunset date and expenditure cap.

With respect to program design, the proposal is clearly intended to add TJRDTC stacking to IRBs, which must be accomplished via tax policy. The proposal implies that by allowing for stacking, there will be more research and development activity in New Mexico. The proposal continues the minimal reporting requirements of all tax expenditures, but it does not identify specific expected outcomes or explain how success will be measured. The proposal does not contain an expiration date nor a sunset.

Finally, targeting is what separates a credit that induces the intended behavior from one that pays for activity that would have occurred anyway. The proposal does not effectively limit the benefits to taxpayers necessary to achieve the apparent purpose, because legacy IRB projects already in New Mexico could also benefit from stacking.

|   |                                 |                                                                                                       |  |
|---|---------------------------------|-------------------------------------------------------------------------------------------------------|--|
| 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? |  |
| 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?                                                         |  |
| 4 | Fiscal Impact Analysis          | Does the proposal estimate the impact on the general fund?                                            |  |
|   |                                 | Does it estimate the impact on the local government and other funds?                                  |  |
|   |                                 | 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?                      |  |
| 7 | Effective Targeting             | Does the proposal clearly identify eligible taxpayers or activities?                                  |  |
|   |                                 | Does it limit benefits to those populations or activities necessary to achieve the stated purpose?    |  |
| 8 | Reporting Requirements          | Does the proposal require sufficient reporting on utilization, cost, and outcomes?                    |  |
|   |                                 | Does it provide for data collection, sharing, and analysis?                                           |  |
|   |                                 | Does it identify performance measures and targets?                                                    |  |

## Fiscal Impacts

Staff estimates the proposal would decrease general fund revenue by up to \$67.0 million per year with a five year estimated cost of \$264 million. The impact is recurring. Administrative cost is additional and comparatively small.

**Methodology.** The estimate uses data from a 2026 LFC policy spotlight on IRBs, which estimated the capital investments and government subsidy costs associated with IRBs. In that report, LFC used property tax data from county assessors to estimate the market value of IRB properties. Staff used this database to identify 18 IRB projects who may become eligible to stack the TRDJC with IRB tax benefits. It is assumed that half of these firms would be able to satisfy the rulemaking requirements to stack the TRDJC with IRBs, with an estimated associated cost of \$56.7 million,

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eventually decreasing to about \$15 million per year as expenditures and payroll growth reach equilibrium.

Since 2009, about 1.3 new IRBs have been issued per year for projects that may be able to stack the TRDJC. This analysis assumes this rate of new TRDJC IRB projects and uses the average capital and payroll expenditure data from current projects to estimate an annual cost of approximately \$2 million per year.

Lastly, 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 fully refundable. This analysis estimates adding refundability will double the average cost of the TRDJC, at a cost to the state of about \$8.3 million.

## Other Considerations

**Technical Language.** The proposal changes the definition of “qualified expenditure” to exclude expenditures on property owned by a county or municipality in connection with an IRB “issued or renewed after January 1, 2025.” This analysis assumes the intent of the proposal is to make IRB projects ineligible for the TJRDTC if the IRB was originally issued prior to January 1, 2025 or if the IRB was originally issued prior to January 1, 2025 but subsequently renewed after January 1, 2025.

**Economic Development.** According to economic development literature, tax incentives have the lowest return on investment (ROI) of many economic development investments<sup>2</sup> 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 most of the expenditure increase associated with the proposal will subsidize businesses already located—or already committed to locating—in New Mexico. Accordingly, the proposal 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.

The proposal 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 stacking concerns.

**Tax Expenditure Assessment.** In 2026, the legislative finance committee (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 23 percent, meaning for every \$1 spent on the credit, the New Mexico economy grows by 23 cents. The estimated annual return in revenue is negative 93 percent, meaning that for every \$1 spent, the state forgoes 93 cents and recaptures 7 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

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<sup>2</sup> 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.

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more effective by differentiating based on need, demographics, or economic activity. The credit targets export-based industries. The [report](#) can be accessed online.

## Comparison to Tax Principles

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

## Potential Questions

- Why does the proposal include the applicability date of January 1, 2025 and not January 1, 2027?
- Currently, the credit is partially refundable for small businesses. Why does the proposal make the credit fully refundable regardless of business size?
- Why does the proposal exclude national laboratories and data centers?