

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

February 2, 2026

Bill:
HB-186

Sponsor:
Representatives Susan K. Herrera, Rebecca Dow, and Senator Roberto “Bobby” J. Gonzales

Short Title:
Tax Credit for Conveyance of Property

Description:
This bill amends the land conservation tax credit for personal income tax (PIT) and corporate income tax (CIT) to increase the credit amount from 50% to 80% of the fair market value of the land conveyed. The bill also creates credit caps depending on when the land was conveyed. For conveyances made before January 1, 2008, the cap is \$100,000, for conveyances made between January 1, 2008 and July 1, 2026, the cap is \$250,000, and after July 1, 2026, the cap is \$ 2 million. This bill clarifies that a taxpayer can only qualify for one credit per taxable year and that the credit can be split based on ownership percentages if there are multiple owners. The credit is currently transferable, and this bill also makes this credit refundable.

The credit is based on the fair market value of land conveyed for the preservation of natural resources, biodiversity, agriculture, watersheds, or historical sites. The taxpayer must apply for the credit with the Energy, Minerals, and Natural Resources Department (EMNRD). The credit carry forward of 20 years remains the same.

Effective Date, Applicability, and Contingency Language:
Not specified or 90 days following adjournment (May 20, 2026). Applicability – The provisions of this act apply to taxable years beginning on or after January 1, 2026.

Taxation and Revenue Department Analyst:
Sara Grubbs

Estimated Revenue Impact*

FY26	FY27	FY28	FY29	FY30	Recurring or Non-Recurring	Fund(s) Affected
--	(\$7,400- \$34,400)	(\$7,700- \$35,900)	(\$8,000- \$37,500)	(\$8,400- \$39,100)	R	General

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

Methodology for Estimated Revenue Impact:
This bill increases the percentage of the credit from 50% to 80% of the fair market value (FMV) of the conveyed land and increases the individual cap on the credit from \$250 thousand to \$2 million over the next several years.

The donated acreage and state expenditures associated with the conveyance of the land conservation tax credit varies.¹ The Taxation and Revenue Department (Tax & Rev) estimated the fiscal impact as a range. Using data provided by EMNRD, Tax & Rev averaged the annual total appraised value from 2008 to 2025, then applied the 80% tax credit to the appraised value for the lower end of the range. For the upper end, Tax & Rev calculated 80% of the maximum annual appraised value from 2023.

¹ See the annual New Mexico Tax Expenditure Report (<https://www.tax.newmexico.gov/forms-publications/>)

The United States Department of Agriculture’s National Agricultural Statistics Service publishes an annual report on land values. Using the publication’s 2025 land value reported growth rates for New Mexico, Tax & Rev inflated the estimate by 4.3%, the average increase of farm and pastureland value from 2024 to 2025.²

This analysis assumes current land conveyance activity remains constant. Tax & Rev recognizes that a \$2 million refundable tax credit may incentivize landowners to donate additional land. However, the administrative process necessary to claim this credit can be cumbersome and includes substantial costs (see Policy Issues).

Policy Issues:

PIT represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 16% of the state’s recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of “adjusted gross income” (AGI) and ties to other statutes in the federal tax code. This is referred to as “conformity” to the federal tax code. The PIT is an important tax policy tool that has the potential to further both horizontal equity by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers’ ability to pay.

CIT is a volatile source of revenue for many states. Providing additional corporate tax incentives increases volatility. For corporate tax filers, a tax credit can erode horizontal equity by basing this credit on a profession, thus corporate taxpayers in similar industries are no longer treated equally.

Multiple states offer income tax credits for land conveyances. New Mexico, Colorado, Georgia, South Carolina and Virginia offer transferrable tax credits resulting in immediate benefits for taxpayers and, correspondingly, an increased cost to the state for administering the transferred credits. Currently, Colorado offers a 90% credit but is reducing it to 80% of the fair market value for tax years 2027 to 2031. The aggregate cap for the Colorado land conservation tax credit is \$50 million and that cap has been reached at 90% credit out as far as 2028. Because of this, it is possible that this proposed tax credit for New Mexico could see a large and unexpected fiscal impact. Other states including Arkansas, California, Connecticut, Delaware, Iowa, Maryland, Massachusetts, Mississippi, New York, and North Carolina offer non-transferable income tax credits.

The administrative process to claim this credit can be burdensome for taxpayers and State agencies. The New Mexico Land Conservancy, a land conservation advocacy group, recommends landowners seek counsel for legal, tax or financial advice to claim this credit. Landowners produce warranty deeds, title searches, maps, photos, surveys, and other documentation. Typical costs can include operating and transactional costs associated with the conveyance and long-term costs of holding the conveyance, such as monitoring, enforcement and legal costs. Additionally, landowners often submit a Baseline Documentation Report (BDR). The BDR is an itemization of the property and is used to monitor and compare any changes in the use of the property. It must include a description of the property, detail current improvements and uses of the property, maps, and photographs that document the condition of the potential conveyance. If necessary, outside professionals may be needed depending on the complexity of the conveyance. This may include surveyors, biologists, ecologists, archaeologists, geologists, or environmental hazards consultants. If there are multiple landowners, the time to complete required documentation can increase. The IRS stipulates that an appraisal must be completed no earlier than 60 days prior to the signing of the conveyance

² <https://esmis.nal.usda.gov/sites/default/release-files/pn89d6567/2n49w148w/m039n441h/land0825.pdf>

contract. The landowner can apply for a New Mexico land conveyance tax credit at any point during this process and can be eligible for a federal tax deduction under noncash charitable contributions.³

The IRS has noted a trend in abusive transactions involving charitable contributions of land conveyances and has published the following:

“The IRS has seen abuses of this tax provision that compromise the policy Congress intended to promote. We have seen taxpayers, often encouraged by promoters and armed with questionable appraisals, take inappropriately large deductions for easements. In some cases, taxpayers claim deductions when they are not entitled to any deduction at all (for example, when taxpayers fail to comply with the law and regulations governing deductions for contributions of conservation easements). Also, taxpayers have sometimes used or developed these properties in a manner inconsistent with section 501(c)(3). In other cases, the charity has allowed property owners to modify the easement or develop the land in a manner inconsistent with the easement's restrictions.”⁴

Because of the \$2 million refundable individual credit cap and the possibility of fraud, Tax & Rev suggests including an aggregate cap with this credit.

This bill does not have a sunset date. Tax & Rev supports sunset dates for policymakers to review the impact of a credit them. Given the expansion of the individual cap for this credit and the additional cost to the state, a sunset date would force an examination of the benefit of this credit versus the cost.

Technical Issues:

[Sections 1 and 2] Pages 5 and 11, Lines 10 and 7 – Tax & Rev recommends that the sentence that ends with “would be eligible.” should delete the period and add ‘and the taxable year the credit is granted.’

Other Issues:

The bill applies to the increased credit percentage and increases the cap to \$2 million for donations occurring on or after July 1, 2026. Because income taxes are administered on a calendar year basis, this creates a mid-year split in eligibility, where only half of the tax year qualifies for the increased credit, but the full \$2 million cap applies. For taxpayers who donated prior to July 1, 2026, they don't have the same incentives for donating in the same taxable year which is not equitable and incentivizes delaying donations until after July 1. Further, this complicates administration for EMNRD and Tax & Rev. To ensure consistent treatment within a taxable year and avoid timing disputes, Tax & Rev recommends applying the increased credit percentage and increased cap to donations occurring on or after January 1, 2026 for Section 1 subsection A, page 2 lines 10 and 12 and subsection C, page 3 line 6 and 9 and for Section 2, subsection A, page 8 lines 10 and 12, and subsection C, page 9, lines 6 and 8.

Tax & Rev recommends updating the application and transfer language to match the structure used in other recently enacted credits, such as the rural health care practitioner tax credit and the clean car income tax credit. Under that model, the certifying agency issues the certificate of eligibility and transmits it to Tax & Rev electronically at regular intervals, eliminating the need for a redundant taxpayer application to Tax & Rev and allowing Tax & Rev to process the credit directly.

The statute still requires taxpayers to submit a separate application to Tax & Rev after EMNRD has certified eligibility. This two-step process is inconsistent with the structure used in recent tax credits, where the certifying agency transmits eligibility information directly to Tax & Rev electronically. The current

³ <https://nmlandconservancy.org/wp-content/uploads/2018/06/Conservation-easement-Process-for-website.pdf>

⁴ <https://www.irs.gov/charities-non-profits/conservation-easements>

language also requires Tax & Rev to issue a physical document granting the tax credit, which essentially is a redundant approval of the already EMNRD-certified credit.

Tax & Rev recommends Sections 1 and 2, subsection (I) should include “The energy, minerals and natural resources department shall provide the department appropriate information for all certificates of eligibility in a secure electronic format on regular intervals agreed upon by both departments.” A memorandum of understanding (MOU) is already established with EMNRD that allows for data sharing for this credit.

Similarly, the transfer provisions require a sworn notarized statement and manual notification to Tax & Rev and restrict transfers to increments of \$10,000 or more. These requirements reflect the original 2003 design of this credit and do not align with modern electronic reporting or the transfer mechanisms used in newer credits.

The bill retains the 20-year carryforward provision from the original statute. Because the bill makes the credit refundable and retains transferability, the carryforward is no longer necessary. Refundability allows taxpayers to fully monetize the credit in the year it is claimed, whereas transferability allows taxpayers to sell the credit if they cannot use it to offset their own tax liability. Retaining the carryforward provision may create confusion for taxpayers and adds unnecessary administrative complexity for Tax & Rev to track refundable, transferable, and carried-forward credits simultaneously. Tax & Rev recommends removing the 20-year carryforward provision or clarifying whether it is intended to apply to refundable or transferred credits.

As written, the credit is available to “landowners” and taxpayers. “Landowners” includes persons and entities that may have no New Mexico tax liability or filing requirement. As currently written, this allows, a individuals and entities with no New Mexico tax obligation to obtain and sell tax credits without reporting the proceeds as taxable income in New Mexico. The expansion of the credit under this bill, combined with refundability and continued transferability, increases the risk that persons could receive refundable credits or sell credits without being subject to any New Mexico taxes, yet entitled to receive a refund for the credit amount. Furthermore, administration of a fully transferred or partially transferred credit is more difficult if there are multiple owners of the property, some of which do not have a New Mexico tax liability and the credit is prorated.

Administrative & Compliance Impact:

Tax & Rev will update forms, instructions and publications and make information system changes. Staff training to administer the credit will take place. This implementation will be included in the annual tax year changes.

For Tax & Rev’s Information Technology Division (ITD), this bill will have a moderate impact on ITD, requiring approximately 680 hours or about 4 months for an estimated staff workload cost of \$47,063.

Estimated Additional Operating Budget Impact*

FY26	FY27	FY28	3 Year Total Cost	Recurring or Non-Recurring	Fund(s) or Agency Affected
--	\$47.0	--	\$47.0	NR	ITD – Staff workload

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