

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

February 6, 2026

Bill:
SB-93

Sponsor:
Senators Crystal Brantley, Carrie Hamblen, and Gabriel Ramos

Short Title:
Rail Infrastructure Tax Credit

Description:
This bill creates a corporate income tax (CIT) credit for railroads that incur qualified reconstruction or replacement expenditures or qualified new rail infrastructure expenditures for tax years prior to January 1, 2036. The tax credit is 50% of the qualified expenditures. For reconstruction or replacement expenditures, the credit cannot exceed the amount of \$5,000 multiplied by the number of miles of railroad track owned or leased in the state by the taxpayer at the close of the tax year. For qualified new rail infrastructure expenditures, the credit cannot exceed \$1 million for each new rail-served customer project of the taxpayer.

A taxpayer shall apply for a certificate of eligibility from the Department of Transportation (DOT). The total annual aggregate amount of credits that may be certified by DOT in any calendar year is \$6 million. DOT shall provide the Taxation and Revenue Department (Tax & Rev) the certificates of eligibility issued. The certificate of eligibility transferred to another taxpayer for the full value of the credit. The amount of credit not claimed by a taxpayer may not be refunded but may be carried forward for five consecutive years. The aggregate cost of the credit shall be included in the tax expenditure report. The bill also amends Section 7-1-8.8 NMSA 1978 to allow Tax & Rev to share return information concerning the rail infrastructure corporate income tax credit with DOT.

Effective Date, Applicability, and Contingency Language:
Not specified or 90 days following adjournment (May 20, 2026). Applicable for tax years starting January 1, 2026.

Taxation and Revenue Department Analyst:
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Estimated Revenue Impact*

FY26	FY27	FY28	FY29	FY30	Recurring or Non-Recurring	Fund(s) Affected
--	(\$1,400 – 2,400)	(\$1,400 – 2,400)	(\$1,400 – 2,400)	(\$1,400 – 2,400)	R	General Fund

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

Methodology for Estimated Revenue Impact:
According to DOT’s New Mexico State Rail Plan, there are no Class II railroads operating in New Mexico; Class III railroad trackage totals approximately 270 miles.¹

¹ https://realfilef260a66b364d453e91ff9b3fedd494dc.s3.amazonaws.com/71d670ed-fd3e-42fa-b165-ebbc6ea75671?AWSAccessKeyId=AKIAJBKPT2UF7EZ6B7YA&Expires=1770326357&Signature=dGWQ%2F34YOJWa1NaWhL95iBT03NU%3D&response-content-disposition=inline%3B%20filename%3D%22DRAFT_2025_NMDOT%20Rail%20Plan.pdf%22&response-content-type=application%2Fpdf

Assuming 30% of these miles incur qualifying expenditures each year, annual maintenance credits would total approximately \$400,000. DOT's State Rail Plan identifies several near-term projects that could qualify for the new infrastructure credit: Santa Teresa Gateway Rail Park Phase 2, a new Arizona Eastern Railway yard in Lordsburg, Santa Teresa Southern yard expansions, Milan Industrial Park siding tracks, and Clovis Industrial Park expansion. Tax & Rev assumes one to two projects will claim the new infrastructure credit annually. Combining maintenance and new infrastructure credits, Tax & Rev estimates that \$1.4 to 2.4 million of credits will be claimed annually.

Policy Issues:

While tax incentives can provide support for industries and encourage specific social and economic behaviors, the high cost of railroad projects may not be large enough for this tax credit to serve as a significant source of incentive. The increasing number of incentives adds complexity to the tax code, creating special treatment and exceptions resulting in increased tax expenditures and a narrower tax base. This can have a negative impact on the General Fund. Additionally, the introduction of more tax incentives increases the compliance burden on both taxpayers and on Tax & Rev. Adding complexity and exceptions to the tax code creates tension with the principles of sound tax policy.

Rail companies have historically been responsible for maintaining their own business interests. These companies are actively expanding their operations to generate more profit, and it is likely that they will continue to do so even without this tax credit. The credit may create an unnecessary distortion to economic activity in New Mexico by incentivizing economic activity that would occur even in the absence of the incentive and by providing economic support to a mature and profitable business sector.

The credit has a sunset date of January 1, 2036. Tax & Rev supports sunset dates for policymakers to review the impact of tax expenditures before extending them.

The bill contains complex caps depending on whether the project is reconstruction, replacement or new rail infrastructure. These include a per credit cap based on the amount of qualified expenditures and an additional cap limiting the amount of each individual credit, based either on miles of track owned or number of new projects. Having separate caps may lead to confusion among taxpayers and increase the complexity of certifying the credit at DOT. Tax & Rev recommends simplifying the cap formulas. Tax & Rev further notes that if a cap is reached in year 1, certifications can be carried over in a queue to the next taxable year where credit capacity is still available. The total cap, including all years through 2035, may be reached well before January 1, 2036, depending on the number of projects undertaken and credits applied for.

Technical Issues:

[Section 1] Page 2, Lines 16-21. This subsection limits the tax credit for qualified construction and replacement expenditures to \$5,000 times “the number of miles of railroad track owned or leased in the state by the taxpayer as of the close of the taxable year.” It is not clear which taxable year, though it might be inferred that it is the taxable year in which the expenditures are made. However, taxpayers may apply for this credit before the end of the taxable year. On lines 20 and 21, Tax & Rev suggests stating “at the time of the application for the credit” rather than “as of the close of the taxable year.”

[Section 1] Subsection G, page 4, Lines 12-23. Tax & Rev recommends replacing the transfer language in the bill under subsection G with language used in other credits so that it reads: “A certificate of eligibility provided by this section may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.”

On pages 5 and 6, Subsection M under both subsections (1) and (2) the terms “gross” and “expenditures” should be defined to prevent ambiguity and disputes.

Other Issues:

On page 6, lines 16-21, the definition of “railroad” is whether the railroad is a class two or class three railroad as classified by the federal surface transportation board. Each year, that board applies a deflator factor to determine classes. There are also many other financial reporting requirements that may affect the amount of credit.

This tax credit is only covered under the Corporate Income Tax Act. A railroad formed as a limited liability company (LLC) or S corporation that files as a partnership will not be eligible for the credit.

Administrative & Compliance Impact:

Tax & Rev will create forms, instructions, publications and update GenTax, tax system of record, for the new credit and draft an information sharing agreement between the Tax & Rev and DOT. This implementation will be included in the annual tax year changes.

This bill will have low impact on Tax & Rev’s Administrative Service Division (ASD). ASD will test credit sourcing and perform other system testing. It is anticipated this work will take approximately 40 hours split between two existing FTEs of a pay-band level eight and 10. Pay-band level eight hours are estimated at time and ½ due to extra hours worked.

This bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD), approximately 860 hours or about 5 ½ months for an estimated staff workload cost of \$59,521. The estimate includes a secure interface between Tax & Rev and the DOT and sharing of return data with DOT.

This bill will have a low impact on Tax & Rev’s Revenue Processing Division (RPD) if the tax credits are uploaded to the system via data exchange regularly.

Estimated Additional Operating Budget Impact*

FY26	FY27	FY28	3 Year Total Cost	Recurring or Non-Recurring	Fund(s) or Agency Affected
--	\$2.7	--	\$2.7	NR	ASD - Staff workload
--	\$59.5	--	\$59.5	NR	ITD - Staff workload

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

Related Bills:

Duplicate of HB-298. Similar to SB-129 (2025 Legislative Session)