

HOUSE BILL 298

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

INTRODUCED BY

Luis M. Terrazas and Derrick J. Lente

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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 HCEDC→~~or qualified new rail infrastructure expenditures~~←HCEDC may claim a tax credit against the taxpayer's tax liability for that taxable year imposed pursuant to the Corporate Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "rail infrastructure corporate income tax credit".

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

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

~~(1) for qualified reconstruction or replacement expenditures,~~←HCEDC HCEDC→; ~~provided that~~←HCEDC

the amount of tax credit shall not exceed an amount equal to

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

the product of five thousand dollars (\$5,000) multiplied by the number of miles of railroad track owned or leased in the state by the taxpayer as of the close of the taxable year HCEDC→; and

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

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

E. A taxpayer shall apply for certification of eligibility for the credit provided by this section from the department of transportation on forms and in the manner prescribed by that department. The total annual aggregate amount of credits that may be certified in any calendar year is

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

HCEDC→~~six million dollars (\$6,000,000)~~←HCEDC HCEDC→one  
million dollars (\$1,000,000)←HCEDC . Completed applications  
shall be considered in the order received. Applications for  
certification received after this limitation has been met in a  
calendar year shall not be approved for that calendar year, but  
shall be considered for certification in the following calendar  
year. The department of transportation shall publish on its  
website on a regular basis the number of rail infrastructure  
corporate income tax credits that have been certified in each  
calendar year.

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

G. A certificate of eligibility issued pursuant to  
this section may either be submitted by the taxpayer with that  
taxpayer's return or 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

.233646.1AIC February 10, 2026 (5:00pm)



underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

department of the sale, exchange or transfer within ten days of the sale, exchange or transfer. The notification shall include the names, addresses and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the year that the credit was originally allowed to the transferring taxpayer and the taxable year or years for which the credit may be claimed.

H. To receive a tax credit provided by this section, a taxpayer shall claim the credit on forms and in the manner prescribed by the department within twelve months following the calendar year in which the certificate of eligibility was issued. The claim shall include a certificate of eligibility issued pursuant to this section.

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

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

K. The credit provided by this section shall be

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the total annual aggregate cost of the credit.

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

M. As used in this section:

HCEDC→(1)→~~"qualified new rail infrastructure expenditures" means gross expenditures for new rail infrastructure incurred by a taxpayer, including the new construction of industrial leads, switches, sidings, rail loading docks and transloading structures involved with servicing new customer locations or existing customer expansions adjacent to a railroad located in New Mexico;~~←HCEDC

HCEDC→(2)←HCEDC HCEDC→(1)←HCEDC "qualified reconstruction or replacement expenditures" means gross expenditures for maintenance, reconstruction or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads, sidings and track-related structures in New Mexico that are owned or leased by a taxpayer claiming the credit provided by this section. "Qualified reconstruction or replacement expenditures" does not include expenditures used to generate a federal tax credit or expenditures funded by a state or federal grant;

HCEDC→(3)←HCEDC HCEDC→(2)←HCEDC "railroad"

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

HCEDC→(4)←HCEDC HCEDC→(3)←HCEDC "rail-served customer project" means construction of railroad infrastructure to provide rail service."

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

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

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

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

C. the commissioner of public lands, return

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

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

(1) the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

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

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

(4) return information required to administer the Health Care Quality Surcharge Act and the Health Care

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

Delivery and Access Act; and

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

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

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

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

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

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

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

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

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

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

N. the superintendent of insurance, return information with respect to the premium tax and the health

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

insurance premium surtax;

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

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

Q. the secretary of public safety or the secretary's designee, return information concerning the Weight Distance Tax Act;

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

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

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

.233646.1AIC February 10, 2026 (5:00pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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

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

- 12 -