

1 SENATE BILL 93

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

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

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "[NEW MATERIAL] RAIL INFRASTRUCTURE CORPORATE INCOME TAX
21 CREDIT.--

22 A. For taxable years prior to January 1, 2036, a
23 taxpayer that is a railroad that incurs qualified
24 reconstruction or replacement expenditures or qualified new
25 rail infrastructure expenditures may claim a tax credit against
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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 or qualified new rail infrastructure expenditures; provided that:

(1) for qualified reconstruction or replacement expenditures, the amount of tax credit shall not exceed an amount equal to 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; 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.

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.