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SENATE BILL 129

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Crystal Brantley

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
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 or qualified new
rail infrastructure expenditures may claim a tax credit against

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1 the taxpayer's tax liability for that taxable year imposed
2 pursuant to the Corporate Income and Franchise Tax Act. The
3 tax credit provided by this section may be referred to as the
4 "rail infrastructure corporate income tax credit".

5 B. The amount of credit that may be allowed
6 pursuant to this section shall be equal to fifty percent of a
7 taxpayer's qualified reconstruction or replacement expenditures
8 or qualified new rail infrastructure expenditures; provided
9 that:

10 (1) for qualified reconstruction or
11 replacement expenditures, the amount of tax credit shall not
12 exceed an amount equal to the product of five thousand dollars
13 (\$5,000) multiplied by the number of miles of railroad track
14 owned or leased in the state by the taxpayer as of the close of
15 the taxable year; and

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

20 C. A taxpayer that seeks to claim a tax credit
21 provided by this section shall apply for a certificate of
22 eligibility from the department of transportation during the
23 taxable year in which, or within three months after, the
24 qualified reconstruction or replacement expenditures or
25 qualified new rail infrastructure expenditures are incurred.

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1 The application shall include the number of miles of railroad
2 track that the taxpayer owns or leases in New Mexico, a
3 description of the amount of qualified reconstruction or
4 replacement expenditures or qualified new rail infrastructure
5 expenditures completed, supporting expenditure detail and the
6 amount of tax credit requested.

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

17 E. The department of transportation may certify a
18 maximum annual aggregate amount of credits of six million
19 dollars (\$6,000,000) per calendar year. If a taxpayer applies
20 for and meets the requirements for the tax credit, but the
21 maximum aggregate amount of credits has been certified for that
22 taxable year, the department of transportation shall issue the
23 taxpayer a certificate of eligibility for the next taxable year
24 in which there are available certifications. The department of
25 transportation shall publish to its website on a regular basis

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1 the number of rail infrastructure corporate income tax credits
2 that have been certified in each calendar year. Completed
3 applications shall be made on forms and in the manner
4 prescribed by the department of transportation and considered
5 in the order received.

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

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. The parties to such a
16 transaction shall notify the department of the sale, exchange
17 or transfer within ten days of the sale, exchange or transfer.
18 The notification shall include the names, addresses and
19 taxpayer identification numbers of the parties to the transfer,
20 the amount of the credit being transferred, the year that the
21 credit was originally allowed to the transferring taxpayer and
22 the taxable year or years for which the credit may be claimed.

23 H. That portion of a tax credit that exceeds a
24 taxpayer's tax liability in the taxable year in which the tax
25 credit is claimed shall not be refunded but may be carried

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1 forward for a maximum of five consecutive taxable years.

2 I. The credit provided by this section shall be
3 included in the tax expenditure budget pursuant to Section
4 7-1-84 NMSA 1978, including the total annual aggregate cost of
5 the credit.

6 J. The department of transportation may promulgate
7 rules necessary for administering the provisions of this
8 section.

9 K. As used in this section:

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

17 (2) "qualified reconstruction or replacement
18 expenditures" means gross expenditures for maintenance,
19 reconstruction or replacement of railroad infrastructure,
20 including track, roadbed, bridges, industrial leads, sidings
21 and track-related structures in New Mexico that are owned or
22 leased by a taxpayer claiming the credit provided by this
23 section. "Qualified reconstruction or replacement
24 expenditures" does not include expenditures used to generate a
25 federal tax credit or expenditures funded by a state or federal

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1 grant;

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

8 (4) "rail-served customer project" means
9 construction of railroad infrastructure to provide rail
10 service."

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

13 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
14 AND LEGISLATIVE AGENCIES.--An employee of the department may
15 reveal confidential return information to the following
16 agencies; provided that a person who receives the information
17 on behalf of the agency shall be subject to the penalties in
18 Section 7-1-76 NMSA 1978 if the person fails to maintain the
19 confidentiality required:

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

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

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1 defined in Section 6-4-12 NMSA 1978;

2 C. the commissioner of public lands, return
3 information for use in auditing that pertains to rentals,
4 royalties, fees and other payments due the state under land
5 sale, land lease or other land use contracts;

6 D. the secretary of [~~human services~~] health care
7 authority or the secretary's delegate under a written agreement
8 with the department:

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

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

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

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

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

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

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

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

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

24 I. the state racing commission, return information
25 with respect to the state, municipal and county gross receipts

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1 taxes paid by racetracks;

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

5 K. the director of the workers' compensation
6 administration or to the director's representatives authorized
7 for this purpose, return information to facilitate the
8 identification of taxpayers that are delinquent or noncompliant
9 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
10 1978;

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

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

25 N. the superintendent of insurance, return

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1 information with respect to the premium tax and the health
2 insurance premium surtax;

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

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

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

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

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

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

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secretary or the secretary's designee; and

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, 2025.