

HOUSE FLOOR SUBSTITUTE FOR
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 14

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

AN ACT

RELATING TO TAXATION; ENACTING THE RENEWABLE ENERGY PRODUCTION
TAX ACT TO IMPOSE AN EXCISE TAX ON ELECTRICITY GENERATED FROM
RENEWABLE ENERGY RESOURCES; REPEALING THE WORKING FAMILIES TAX
CREDIT AND ENACTING THE EARNED INCOME TAX CREDIT; REPEALING THE
RENEWABLE ENERGY PRODUCTION TAX CREDITS PURSUANT TO THE INCOME
TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT AND THE
NEW SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Renewable Energy
Production Tax Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Renewable Energy Production Tax Act:

A. "department" means the taxation and revenue

1 department;

2 B. "generating facility" means a facility that
3 produces electricity by the use of renewable energy resources;
4 and

5 C. "renewable energy resource" means solar, wind,
6 hydropower, geothermal or biomass used as an energy resource.
7 As used in this subsection, "biomass" includes agriculture or
8 animal waste, small diameter timber, salt cedar and other
9 phreatophyte or woody vegetation removed from river basins or
10 watersheds in New Mexico, landfill gas and anaerobically
11 digested waste biomass.

12 SECTION 3. [NEW MATERIAL] IMPOSITION OF TAX--RATE--
13 TAXABLE VALUE--DENOMINATION AS "RENEWABLE ENERGY PRODUCTION
14 TAX".--

15 A. For the privilege of generating electricity from
16 renewable energy resources, there is imposed on a generating
17 facility an excise tax equal to three and three-fourths percent
18 of the taxable value of each megawatt-hour, or portion thereof,
19 of electricity generated from renewable energy resources in
20 this state.

21 B. The taxable value for electricity generated from
22 renewable energy resources shall be the wholesale value of
23 electricity established by the United States energy information
24 administration for the southwest regional wholesale market.
25 The taxable event occurs when the electricity is generated.

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1 The wholesale value shall be the monthly average wholesale
2 price for the month in which the taxable event occurs.

3 C. The tax imposed by this section shall be known
4 as the "renewable energy production tax".

5 SECTION 4. [NEW MATERIAL] EXEMPTIONS.--

6 A. Exempted from the renewable energy production
7 tax is electricity produced from renewable energy resources by:

8 (1) the United States or any agency,
9 department or instrumentality thereof;

10 (2) the state of New Mexico or any political
11 subdivision thereof;

12 (3) any Indian nation, tribe or pueblo from
13 activities or transactions occurring on its sovereign
14 territory; or

15 (4) any foreign nation or agency,
16 instrumentality or political subdivision thereof, but only when
17 required by a treaty in force to which the United States is a
18 party.

19 B. Exempted from the renewable energy production
20 tax is electricity produced from renewable energy resources
21 for:

22 (1) the personal consumption of the producer,
23 including any excess production of electricity not consumed by
24 the producer that does not exceed five hundred kilowatt-hours
25 in a twenty-four-hour period; and

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1 (2) electricity consumed in New Mexico.

2 SECTION 5. [NEW MATERIAL] DATE PAYMENT DUE.--The tax
3 imposed by the Renewable Energy Production Tax Act is to be
4 paid on or before the twenty-fifth day of the month following
5 the month in which the taxable event occurs.

6 SECTION 6. Section 7-1-2 NMSA 1978 (being Laws 1965,
7 Chapter 248, Section 2, as amended) is amended to read:

8 "7-1-2. APPLICABILITY.--The Tax Administration Act
9 applies to and governs:

10 A. the administration and enforcement of the
11 following taxes or tax acts as they now exist or may hereafter
12 be amended:

13 (1) Income Tax Act;

14 (2) Withholding Tax Act;

15 (3) Oil and Gas Proceeds and Pass-Through
16 Entity Withholding Tax Act;

17 (4) Gross Receipts and Compensating Tax Act,
18 Interstate Telecommunications Gross Receipts Tax Act and Leased
19 Vehicle Gross Receipts Tax Act;

20 (5) Liquor Excise Tax Act;

21 (6) Local Liquor Excise Tax Act;

22 (7) any municipal local option gross receipts
23 tax or municipal compensating tax;

24 (8) any county local option gross receipts tax
25 or county compensating tax;

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- 1 (9) Special Fuels Supplier Tax Act;
- 2 (10) Gasoline Tax Act;
- 3 (11) petroleum products loading fee, which fee
- 4 shall be considered a tax for the purpose of the Tax
- 5 Administration Act;
- 6 (12) Alternative Fuel Tax Act;
- 7 (13) Cigarette Tax Act;
- 8 (14) Estate Tax Act;
- 9 (15) Railroad Car Company Tax Act;
- 10 (16) Investment Credit Act, rural job tax
- 11 credit, Laboratory Partnership with Small Business Tax Credit
- 12 Act, Technology Jobs and Research and Development Tax Credit
- 13 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 14 Credit Act and high-wage jobs tax credit;
- 15 (17) Corporate Income and Franchise Tax Act;
- 16 (18) Uniform Division of Income for Tax
- 17 Purposes Act;
- 18 (19) Multistate Tax Compact;
- 19 (20) Tobacco Products Tax Act;
- 20 (21) the telecommunications relay service
- 21 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 22 surcharge shall be considered a tax for the purposes of the Tax
- 23 Administration Act;
- 24 (22) the Insurance Premium Tax Act;
- 25 (23) the Health Care Quality Surcharge Act;

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- 1 (24) the Cannabis Tax Act; [~~and~~]
2 (25) the Health Care Delivery and Access Act;
3 and
4 (26) the Renewable Energy Production Tax Act;

5 B. the administration and enforcement of the
6 following taxes, surtaxes, advanced payments or tax acts as
7 they now exist or may hereafter be amended:

- 8 (1) Resources Excise Tax Act;
9 (2) Severance Tax Act;
10 (3) any severance surtax;
11 (4) Oil and Gas Severance Tax Act;
12 (5) Oil and Gas Conservation Tax Act;
13 (6) Oil and Gas Emergency School Tax Act;
14 (7) Oil and Gas Ad Valorem Production Tax Act;
15 (8) Natural Gas Processors Tax Act;
16 (9) Oil and Gas Production Equipment Ad
17 Valorem Tax Act;
18 (10) Copper Production Ad Valorem Tax Act;
19 (11) any advance payment required to be made
20 by any act specified in this subsection, which advance payment
21 shall be considered a tax for the purposes of the Tax
22 Administration Act;
23 (12) Enhanced Oil Recovery Act;
24 (13) Natural Gas and Crude Oil Production
25 Incentive Act; and

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1 (14) intergovernmental production tax credit
2 and intergovernmental production equipment tax credit;

3 C. the administration and enforcement of the
4 following taxes, surcharges, fees or acts as they now exist or
5 may hereafter be amended:

6 (1) Weight Distance Tax Act;

7 (2) the workers' compensation fee authorized
8 by Section 52-5-19 NMSA 1978, which fee shall be considered a
9 tax for purposes of the Tax Administration Act;

10 (3) Uniform Unclaimed Property Act (1995);

11 (4) 911 emergency surcharge and the network
12 and database surcharge, which surcharges shall be considered
13 taxes for purposes of the Tax Administration Act;

14 (5) the solid waste assessment fee authorized
15 by the Solid Waste Act, which fee shall be considered a tax for
16 purposes of the Tax Administration Act;

17 (6) the water conservation fee imposed by
18 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
19 for the purposes of the Tax Administration Act; and

20 (7) the gaming tax imposed pursuant to the
21 Gaming Control Act; and

22 D. the administration and enforcement of all other
23 laws, with respect to which the department is charged with
24 responsibilities pursuant to the Tax Administration Act, but
25 only to the extent that the other laws do not conflict with the

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1 Tax Administration Act."

2 SECTION 7. Section 7-2-18.15 NMSA 1978 (being Laws 2007,
3 Chapter 45, Section 9, as amended) is repealed and a new
4 Section 7-2-18.15 NMSA 1978 is enacted to read:

5 "7-2-18.15. [NEW MATERIAL] EARNED INCOME TAX CREDIT.--

6 A. The credit provided by this section may be
7 referred to as the "earned income tax credit". A taxpayer who
8 is an eligible individual may claim the earned income tax
9 credit against the taxpayer's tax liability imposed pursuant to
10 the Income Tax Act in an amount equal to the credit percentage
11 of so much of the taxpayer's earned income for the taxable year
12 as does not exceed the earned income amount; provided that the
13 amount of the credit shall not exceed the excess of:

14 (1) the credit percentage of the earned income
15 amount; over

16 (2) the phaseout percentage of so much of the
17 adjusted gross income or, if greater, the earned income, of the
18 taxpayer for the taxable year as exceeds the phaseout amount.

19 B. The credit percentage and the phaseout
20 percentage shall be determined as follows:

21	In the case of a taxpayer	The credit	The phaseout
22	with:	percentage is:	percentage is:
23	1 qualifying child	11.55%	4.55%
24	2 qualifying children	13.6%	6.15%
25	3 or more qualifying children	15.3%	6.15%

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1 No qualifying children 2.6% 2.1%.

2 C. Except as provided in Subsections E and F of
 3 this section, the earned income amount and the phaseout amount
 4 shall be determined as follows:

5 In the case of a taxpayer	The earned	The phaseout
6 with:	income amount	amount is:
7	is:	
8 1 qualifying child	\$11,000	\$36,000
9 2 or more qualifying children	\$15,000	\$40,000
10 No qualifying children	\$8,000	\$25,000.

11 D. For married individuals filing joint returns,
 12 the phaseout amount shall be increased by five thousand dollars
 13 (\$5,000).

14 E. Except as provided in Subsection F of this
 15 section, if the greater of an eligible individual's earned
 16 income or adjusted gross income is less than the earned income
 17 amount and the amount of credit is less than one hundred
 18 dollars (\$100), the amount of the credit shall be one hundred
 19 dollars (\$100).

20 F. For the 2026 taxable year and each subsequent
 21 taxable year, the earned income amounts and phaseout amounts
 22 shown in the table in Subsection C of this section, the amount
 23 of credit provided in Subsection E of this section and the
 24 phaseout amount provided in Subsection D of this section shall
 25 be adjusted to account for inflation. The department shall

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1 make the adjustment by multiplying each amount of credit by a
2 fraction, the numerator of which is the consumer price index
3 ending during the prior taxable year and the denominator of
4 which is the consumer price index ending in taxable year 2025.
5 The result of the multiplication shall be rounded to the
6 nearest ten dollars (\$10.00), except that if the result would
7 be an amount less than the corresponding amount for the
8 preceding taxable year, then no adjustment shall be made.

9 G. The secretary shall reflect the provisions of
10 Subsections B and C of this section in tables that shall have
11 income brackets of not greater than fifty dollars (\$50.00) each
12 for:

13 (1) earned income between zero and the amount
14 of earned income at which the credit is phased out under
15 Subsection C of this section; and

16 (2) adjusted gross income between the dollar
17 amount at which the phase out begins under Subsection C of this
18 section and the amount of adjusted gross income at which the
19 credit is phased out under that subsection.

20 H. That portion of credit that exceeds a taxpayer's
21 tax liability in the taxable year in which the credit is
22 claimed shall be refunded. A refund made to a taxpayer
23 pursuant to this section shall not be treated as income.

24 I. A taxpayer allowed a tax credit pursuant to this
25 section shall report the amount of the credit to the department

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1 in a manner required by the department.

2 J. 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 K. As used in this section:

7 (1) "earned income" means "earned income" as
 8 defined in 26 U.S.C. 32(c)(2);

9 (2) "eligible individual" means a resident who
 10 is:

11 (a) an "eligible individual" pursuant to
 12 the federal earned income tax credit who is eligible to claim
 13 the federal earned income tax credit in the taxable year; or

14 (b) an individual who would have been
 15 eligible for the federal earned income tax credit but for the
 16 age requirement pursuant to 26 U.S.C. 32(c)(1)(A)(ii)(II), as
 17 that section may be amended or renumbered; provided that the
 18 taxpayer is at least eighteen years of age but has not reached
 19 the age of twenty-five;

20 (3) "federal earned income tax credit" means
 21 the federal tax credit allowed pursuant to 26 U.S.C. 32, as
 22 that section may be amended or renumbered; and

23 (4) "qualifying child" means "qualifying
 24 child" as defined by Section 152(c) of the Internal Revenue
 25 Code, as that section may be amended or renumbered, but

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1 includes any minor child or stepchild of the taxpayer who would
2 be a qualifying child for federal income tax purposes if the
3 public assistance contributing to the support of the child or
4 stepchild was considered to have been contributed by the
5 taxpayer."

6 SECTION 8. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--

7 A. If a taxpayer has met the eligibility
8 requirements to apply for and claim a credit pursuant to
9 Section 7-2-18.18, 7-2-18.31 or 7-2A-19 NMSA 1978 for a period
10 prior to January 1, 2026, the taxpayer may claim the credit for
11 those periods, including amounts that may be carried forward
12 pursuant to those sections and acts as they were in effect
13 prior to January 1, 2026.

14 B. If a taxpayer has claimed and been awarded a
15 credit pursuant to Section 7-2-18.18, 7-2-18.31 or 7-2A-19 NMSA
16 1978 but a portion of the credit claimed remains unused, the
17 taxpayer may claim the unused portion, including amounts that
18 could have been carried forward pursuant to those sections and
19 acts as they were in effect prior to January 1, 2026.

20 SECTION 9. REPEAL.--Sections 7-2-18.18, 7-2-18.31 and
21 7-2A-19 NMSA 1978 (being Laws 2007, Chapter 204, Section 2,
22 Laws 2020, Chapter 13, Section 1 and Laws 2002, Chapter 59,
23 Section 1, as amended) are repealed effective January 1, 2026.

24 SECTION 10. APPLICABILITY.--

25 A. The provisions of Sections 1 through 5 of this

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1 act apply to the production of electricity from renewable
2 energy resources beginning on or after July 1, 2025.

3 B. The provisions of Section 7 of this act apply to
4 taxable years beginning on or after January 1, 2025.

5 SECTION 11. EFFECTIVE DATE.--The effective date of the
6 provisions of Sections 1 through 6 of this act is July 1, 2025.

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