

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

**January 29, 2026**

**Bill:**

SB-163

**Sponsor:**

Senator Anthony L. Thorton

**Short Title:**

Rename Geothermal Tax Credits

**Description:**

This bill amends the geothermal electricity generation income tax credit and corporate income tax credit renaming the credits the geothermal energy production income tax credit and corporate income tax credit. Under current law, eligibility for the credits is limited to facilities that generate electricity. This bill changes eligibility to facilities that produce and deliver electricity from geothermal resources or geothermal energy for industrial, commercial, or residential use and provides that the credit applies only if the facility produces geothermal energy. The annual aggregate credit cap of \$5 million is increased to \$55 million.

The bill adds a tiered credit amount for each year that the geothermal energy production facility operates and limits the amount of the credit per facility to 200,000 megawatt-hours. The credit has a tiered structure based on an amount per kilowatt-hour: in year one \$0.015; year two \$0.02; year three \$0.025; year four \$0.03; year five \$0.035; year six \$0.04; year seven \$0.035; year eight \$0.03; year nine \$0.025; and year 10 \$0.02.

Of the new \$55 million annual aggregate cap, \$11 million is reserved for applications submitted by tribal businesses and small businesses that employ 50 or fewer full-time employees. The bill clarifies that the credit is not refundable.

**Effective Date, Applicability, and Contingency Language:**

Not specified or 90 days following adjournment (May 20, 2026). Applicability – The provisions of this act apply to taxable years beginning on or after January 1, 2026.

**Taxation and Revenue Department Analyst:**

Chen Xie

**Estimated Revenue Impact\***

<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>FY29</b>	<b>FY30</b>	<b>Recurring or Non-Recurring</b>	<b>Fund(s) Affected</b>
-	(1,770)	(2,370)	(2,960)	(3,550)	NR	General Fund

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

**Methodology for Estimated Revenue Impact:**

The estimated revenue impact was developed using publicly available information on geothermal electricity generation in New Mexico, including utility reporting, industry publications, and generator-level data from the U.S. Energy Information Administration. Public sources indicate that Lightning Dock Geothermal is the only utility-scale geothermal power plant operating in New Mexico as of calendar year 2025, with an approximate capacity of 15 megawatts.

The credit currently allows existing facilities to be eligible for the credit if the facility doubles its production of geothermal energy on or after January 1, 2025. Public information indicates that a new geothermal production well was drilled and placed into service at the Lightning Dock facility in 2025. For purposes of

this analysis, it is assumed that the new well will increase Lightning Dock's geothermal energy production of at least 100% relative to pre-2025 levels, making the facility eligible for the geothermal energy production tax credit beginning in taxable year 2026.

Annual geothermal energy production for Lightning Dock was estimated to have a 90% capacity factor, resulting in approximately 118,000 megawatt-hours per year. Applying the yield per-kilowatt-hour credit rates yields an estimated annual revenue impact ranging from approximately \$1.8 million in the first credit year (FY2027) to \$3.6 million by the fourth credit year.

In addition, a large-scale geothermal project with an announced capacity of approximately 150 megawatts was publicly announced by XGS Energy and Meta in 2025. Public statements describe the project as a phased development targeted to begin commercial operations around calendar year 2030. For purposes of this analysis, the Taxation and Revenue Department (Tax & Rev) assumes the project begins partial operation in calendar year 2030 and affects FY2031 which is outside of the revenue outlook range. The bill caps the credits claimed for a single geothermal production facility to the first 200,000 megawatt-hours of geothermal energy the cap of \$200,000 may limit the credits available to be claimed for this facility. Applying the first-year credit rate of 1.5 cents per kilowatt-hour yields an estimated FY2031 revenue impact from this project of approximately \$3 million. This would be on top of on-going credit claiming from the Lightning Dock facility.

No additional geothermal facilities are assumed to become operational during the forecast period. Due to long development timelines and uncertainty surrounding permitting, financing, and construction, the timing and magnitude of future revenue impacts remain uncertain.

### **Policy Issues:**

New Mexico has substantial geothermal resources, and geothermal generation offers a reliable, baseload renewable energy source that can complement intermittent renewable resources. To the extent the credit incentivizes new geothermal development that would not otherwise occur, the bill may contribute to long-term economic development, energy diversification, and emissions reduction goals. Tax credits can be an effective tool for encouraging investment in capital-intensive and emerging energy technologies such as geothermal energy.

This bill expands and extends tax credits for geothermal energy production, significantly increasing the annual aggregate cap from prior law and broadening eligibility to include both electricity produced using geothermal resources and thermal energy production. By increasing the credit cap to \$55 million per year and allowing credits to be transferred, the bill materially increases potential General Fund revenue exposure relative to current geothermal production levels in New Mexico.

Tax expenditures reduce General Fund revenue and narrow the tax base. Because the credit is production-based, transferable, and available for up to 10 years per facility, the long-term fiscal impact may extend well beyond the forecast period.

The bill's eligibility provisions for existing facilities may create uncertainty. Existing geothermal facilities qualify only if production increases by at least 100% relative to pre-2025 levels. Determining baseline production levels and verifying qualifying increases may present administrative challenges and could require additional monitoring and coordination between agencies.

The credit does have a defined sunset date. Tax & Rev supports sunset dates for policymakers to review the impact of tax expenditures before extending them.

### **Technical Issues:**

**[Sections 1 & 2]** Tax & Rev recommends clarifying how the first year is determined to ensure taxpayers receive the full intended benefit. This recommendation is based on issues identified under the renewable energy production tax credit (REPTC), which required a 2021 statutory amendment to correct similar first-year eligibility problems. To provide an additional year of eligibility (consistent with the 2021 REPTC amendment), Tax & Rev suggests adding a new subsection (11) to the following Sections 1 and 2, Sub-section B, page 4, line 7 and page 12, line 9: “(11) If the geothermal energy production facility produces geothermal energy for fewer than twelve months in the first taxable year in which production begins, the taxpayer shall be eligible for an additional taxable year of credit equal to the number of months not included in the first taxable year, at the rate applicable to the first-tier year.”

Tax & Rev recommends clarifying that eligibility is granted once per facility by adding the following subsection (12) after the proposed amendment above, under Sections 1 and 2, Sub-section B, page 4, line 7 and page 12, line 9: “(12) Eligibility under this section is granted once per facility, and no facility may receive more than ten years of eligibility under the tiered schedule established in this subsection.”

Section C outlines the process for Energy, Minerals and Natural Resources Department (EMNRD) to certify eligibility for the credit but does not clearly define how certification should occur, whether certification must be annual, or how ownership changes should be handled. These gaps mirror long-standing administrative challenges under the REPTC, where the absence of explicit statutory direction required Tax & Rev to manually track facility ownership, production years, and eligibility outside the tax system. Without clarification, Tax & Rev would again need to rely on external spreadsheets to determine which taxpayer is entitled to the credit for each taxable year, increasing the risk of errors and inconsistent administration. Section C also does not require certification to be based on verified production or specify that the certificate must be issued to the taxpayer who owns the facility for the taxable year, creating potential disputes when facilities are sold mid-year.

To ensure accurate, auditable administration and avoid repeating REPTC-related issues, Tax & Rev recommends adding the following clarifying language to the end of each Sub-section C, on page 5, line 13 and page 13, line 14. “A taxpayer shall submit an initial application for approval of a geothermal energy production facility prior to claiming any credit pursuant to this section. Upon approval of the facility, the energy, minerals and natural resources department shall annually certify geothermal energy production for the taxable year. A taxpayer shall obtain a certificate of eligibility for each taxable year in which geothermal energy is produced. Certification shall be based on verified geothermal energy production for the taxable year, and each certificate of eligibility shall specify the taxable year for which it is issued and the taxpayer that owns the geothermal energy production facility for that taxable year. If ownership of the facility changes, the new owner shall apply for certification for the taxable year in which the change occurs, and the certificate of eligibility for that taxable year shall be issued to the new owner.”

**[Section 2]** Page 7, Lines 8-10 – The removal of this language appears to limit the department’s ability to administer how the tax credit may be claimed. Tax & Rev recommends retaining Subsection H to ensure accurate and auditable administration of the credit.

**[Section 3]** Page 17, Line 10 - Without an effective date, this legislation is effective May 20, 2026. As this credit is administered at another agency and the claim is handled at Tax & Rev, it is recommended that this have an effective date of January 1, 2026, to line up with the applicability on when it can be claimed. If not, there may be issues with the first claimable year for these credits and the cap that exists currently.

### **Other Issues:**

None.

**Administrative & Compliance Impact:**

Tax & Rev will update forms, instructions, and publications and make information system changes that currently exist for this credit. This implementation will be included in the annual tax year changes.

The implementation of this bill will have low impact on Tax & Rev’s Administrative Services Division (ASD). This will require testing the changes in the GenTax system and will require 40 hours split between two existing FTEs at a pay-band level eight and 10. Pay-band level eight hours are estimated at time and ½ due to extra hours worked with a total cost in staff workload of \$2,700.

This bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD), approximately 860 hours about five months and \$59,521 of staff workload costs. This estimate assumes an electronic data exchange from EMNRD.

**Estimated Additional Operating Budget Impact\***

<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Non-Recurring</b>	<b>Fund(s) or Agency Affected</b>
-	\$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 HB-62