

HOUSE BILL 62

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

## INTRODUCED BY

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## AN ACT

RELATING TO TAXATION; RENAMING THE GEOTHERMAL ELECTRICITY  
GENERATION INCOME AND CORPORATE INCOME TAX CREDITS TO THE  
GEOTHERMAL ENERGY PRODUCTION INCOME AND CORPORATE INCOME TAX  
CREDITS; CREATING A TAX CREDIT SCHEDULE BASED ON THE AMOUNT PER  
KILOWATT-HOUR OF GEOTHERMAL ENERGY PRODUCED FOR CREDITS.

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

SECTION 1. Section 7-2-18.38 NMSA 1978 (being Laws 2024, Chapter 67, Section 33, as amended) is amended to read:

"7-2-18.38. GEOTHERMAL [ELECTRICITY GENERATION] ENERGY  
PRODUCTION INCOME TAX CREDIT.--

A. For taxable years ending prior to January 1, [2032] 2036, a taxpayer who is not a dependent of another individual and who holds an interest in a geothermal [electricity generation] energy production facility may apply .232416.4

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1 for, and the department may allow, a credit against the  
2 taxpayer's tax liability imposed pursuant to the Income Tax  
3 Act. The tax credit provided by this section may be referred  
4 to as the "geothermal [electricity generation] energy  
5 production income tax credit".

6 [B. The amount of a tax credit allowed pursuant to  
7 this section shall be an amount equal to one and one-half cents  
8 (\$0.015) per kilowatt-hour of electricity generated in New  
9 Mexico in a taxable year by the geothermal electricity  
10 generation facility in which the taxpayer holds an interest.]

11 B. The amount of credit shall be at the following  
12 amounts; provided that the total amount of credits claimed for  
13 a single geothermal energy production facility in a taxable  
14 year shall be limited to the first two hundred thousand  
15 megawatt-hours of geothermal energy produced by the geothermal  
16 energy production facility in that taxable year:

17 (1) one and one-half cents (\$.015) per  
18 kilowatt-hour in the first taxable year in which the geothermal  
19 energy production facility produces geothermal energy using a  
20 geothermal energy resource;

21 (2) two cents (\$.02) per kilowatt-hour in the  
22 second taxable year in which the geothermal energy production  
23 facility produces geothermal energy using a geothermal energy  
24 resource;

25 (3) two and one-half cents (\$.025) per

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1       kilowatt-hour in the third taxable year in which the geothermal  
2       energy production facility produces geothermal energy using a  
3       geothermal energy resource;

4               (4) three cents (\$.03) per kilowatt-hour in  
5       the fourth taxable year in which the geothermal energy  
6       production facility produces geothermal energy using a  
7       geothermal energy resource;

8               (5) three and one-half cents (\$.035) per  
9       kilowatt-hour in the fifth taxable year in which the geothermal  
10       energy production facility produces geothermal energy using a  
11       geothermal energy resource;

12               (6) four cents (\$.04) per kilowatt-hour in the  
13       sixth taxable year in which the geothermal energy production  
14       facility produces geothermal energy using a geothermal energy  
15       resource;

16               (7) three and one-half cents (\$.035) per  
17       kilowatt-hour in the seventh taxable year in which the  
18       geothermal energy production facility produces geothermal  
19       energy using a geothermal energy resource;

20               (8) three cents (\$.03) per kilowatt-hour in  
21       the eighth taxable year in which the geothermal energy  
22       production facility produces geothermal energy using a  
23       geothermal energy resource;

24               (9) two and one-half cents (\$.025) per  
25       kilowatt-hour in the ninth taxable year in which the geothermal

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1 energy production facility produces geothermal energy using a  
2 geothermal energy resource; and

3 (10) two cents (\$.02) per kilowatt-hour in the  
4 tenth taxable year in which the geothermal energy production  
5 facility produces geothermal energy using a geothermal energy  
6 resource.

7 C. Subject to the limitation provided in Subsection  
8 D of this section, a taxpayer shall apply for certification of  
9 eligibility for the credit provided by this section from the  
10 energy, minerals and natural resources department on forms and  
11 in the manner prescribed by that department. ~~[The total annual~~  
12 ~~aggregate amount of credits that may be certified for~~  
13 ~~geothermal electricity generation income tax credits and~~  
14 ~~geothermal electricity generation corporate income tax credits~~  
15 ~~in any calendar year is five million dollars (\$5,000,000).]~~

16 Completed applications shall be considered in the order  
17 received. Applications for certification received after this  
18 limitation has been met in a calendar year shall not be  
19 approved for that calendar year, but shall be considered for  
20 certification in the following calendar year. ~~[The application~~  
21 ~~shall include proof that the taxpayer is eligible for~~  
22 ~~certification, including that the geothermal electricity~~  
23 ~~generation facility that produced the energy for which the~~  
24 ~~taxpayer is claiming credit, the geothermal resources used by~~  
25 ~~the geothermal electricity generation facility and the~~

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1 ~~taxpayer's interest in the geothermal electricity generation~~  
2 ~~facility are in accordance with the definitions set forth in~~  
3 ~~this section.] For taxpayers approved to receive the credit,~~  
4 the energy, minerals and natural resources department shall  
5 issue a certificate of eligibility stating the amount of credit  
6 to which the taxpayer is entitled and the taxable year in which  
7 the credit may be claimed. The certificate of eligibility  
8 shall be numbered for identification and declare the date of  
9 issuance and the amount of the tax credit allowed. The energy,  
10 minerals and natural resources department shall provide the  
11 department with the certificates of eligibility issued pursuant  
12 to this subsection in an electronic format at regularly agreed-  
13 upon intervals.

14 D. The total annual aggregate amount of credits  
15 that may be certified for geothermal energy production income  
16 tax credits and geothermal energy production corporate income  
17 tax credits in a calendar year is fifty-five million dollars  
18 (\$55,000,000); provided that eleven million dollars  
19 (\$11,000,000) of the total annual aggregate amount shall be  
20 reserved for applications submitted by tribal businesses and  
21 small businesses. If the total aggregate amount pursuant to  
22 this section is not met in a calendar year, the difference may  
23 be added to the total annual aggregate amount allowed for the  
24 following calendar year.

25 E. A certificate of eligibility for the tax credit

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1 may be sold, exchanged or otherwise transferred to another  
2 taxpayer for the full value of the credit. The parties to such  
3 a transaction shall notify the department of the sale, exchange  
4 or transfer within ten days of the sale, exchange or transfer  
5 in an electronic format prescribed by the department.

6 [D.] F. A taxpayer may claim a geothermal  
7 ~~[electricity generation]~~ energy production income tax credit  
8 for the taxable year in which ~~[electricity was generated]~~  
9 geothermal energy was produced in New Mexico by a geothermal  
10 ~~[electricity generation]~~ energy production facility in which  
11 the taxpayer holds an interest. To receive the credit provided  
12 by this section, a taxpayer shall apply to the department on  
13 forms and in the manner prescribed by the department. The  
14 application shall include a certificate of eligibility issued  
15 pursuant to Subsection C of this section.

16 [E.] G. That portion of a credit that exceeds a  
17 taxpayer's tax liability in the taxable year in which the  
18 credit is claimed shall not be refunded but may be carried  
19 forward for up to three consecutive years.

20 [F.] H. Married individuals filing separate returns  
21 for a taxable year for which they could have filed a joint  
22 return may each claim only one-half of the credit that would  
23 have been claimed on a joint return.

24 [G.] I. A taxpayer may be allocated the right to  
25 claim a credit provided by this section in proportion to the

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1 taxpayer's ownership interest if the taxpayer owns an interest  
2 in a business entity that is taxed for federal income tax  
3 purposes as a partnership or limited liability company and that  
4 business entity has met all of the requirements to be eligible  
5 for the credit. The total credit claimed by all members of the  
6 partnership or limited liability company shall not exceed the  
7 maximum amount of the credit allowed pursuant to this section.

8 ~~H. A taxpayer allowed a tax credit pursuant to  
9 this section shall report the amount of the credit to the  
10 department in a manner required by the department.~~

11 ~~I.~~ J. The tax credit provided by this section  
12 shall be included in the tax expenditure budget pursuant to  
13 Section 7-1-84 NMSA 1978, including the annual aggregate cost  
14 of the tax credit.

15 ~~J.~~ K. As used in this section:

16 (1) "geothermal [electricity generation]  
17 energy production facility" means a facility located in New  
18 Mexico that ~~[generates electricity]~~ produces and delivers  
19 electricity or thermal energy from geothermal resources for  
20 industrial, commercial or residential use and:

21 (a) for new facilities, begins  
22 construction on or after January 1, 2025; or

23 (b) for existing facilities, on or after  
24 January 1, 2025, increases the amount of ~~[electricity~~  
25 ~~generated]~~ geothermal energy produced from geothermal resources

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1 the facility [generated] produced prior to that date by at  
2 least one hundred percent;

3 (2) "geothermal resources" means the natural  
4 heat of the earth in excess of two hundred fifty degrees  
5 Fahrenheit or the energy, in whatever form, below the surface  
6 of the earth present in, resulting from, created by or that may  
7 be extracted from this natural heat in excess of two hundred  
8 fifty degrees Fahrenheit and all minerals in solution or other  
9 products obtained from naturally heated fluids, brines,  
10 associated gases and steam, in whatever form, found below the  
11 surface of the earth, but excluding oil, hydrocarbon gas and  
12 other hydrocarbon substances and excluding the heating and  
13 cooling capacity of the earth not resulting from the natural  
14 heat of the earth in excess of two hundred fifty degrees  
15 Fahrenheit as may be used for the heating and cooling of  
16 buildings through an on-site geoexchange heat pump or similar  
17 on-site system; [and]

18 (3) "interest in a geothermal [electricity  
19 generation] energy production facility" means title to a  
20 geothermal [electricity generation] energy production facility;  
21 a leasehold interest in such facility; an ownership interest in  
22 a business or entity that is taxed for federal income tax  
23 purposes as a partnership that holds title to or a leasehold  
24 interest in such facility; or an ownership interest, through  
25 one or more intermediate entities that are each taxed for

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federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility;

(4) "kilowatt-hour of geothermal energy"

### means:

(a) one kilowatt-hour of electricity

(b) one kilowatt-hour of net thermal energy transferred to a purchaser or end user at the point of sale or end-use, as measured at a customer delivery point using calibrated metering equipment that determines thermal energy based on measured flow and measured supply-and-return temperature differential, in accordance with generally accepted industry practice;

(5) "small business" means a business located in New Mexico that employs fifty or fewer full-time employees; and

(6) "tribal business" means a business located in New Mexico that is owned and operated by an Indian nation, tribe or pueblo or a member of an Indian nation, tribe or pueblo."

**SECTION 2.** Section 7-2A-24.1 NMSA 1978 (being Laws 2024, Chapter 67, Section 34, as amended) is amended to read:

"7-2A-24.1. GEOTHERMAL [ELECTRICITY GENERATION] ENERGY  
PRODUCTION CORPORATE INCOME TAX CREDIT.--

A. For taxable years ending prior to January 1,

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[2032] 2036, a taxpayer that holds an interest in a geothermal [electricity generation] energy production facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "geothermal [electricity generation] energy production corporate income tax credit".

[B. The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents (\$0.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility in which the taxpayer holds an interest.]

B. The amount of credit shall be at the following amounts; provided that the total amount of credits claimed for a single geothermal energy production facility in a taxable year shall be limited to the first two hundred thousand megawatt-hours of geothermal energy produced by the geothermal energy production facility in that taxable year:

(1) one and one-half cents (\$.015) per kilowatt-hour in the first taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(2) two cents (\$.02) per kilowatt-hour in the second taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy

resource;

(3) two and one-half cents (\$.025) per kilowatt-hour in the third taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(4) three cents (\$.03) per kilowatt-hour in the fourth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(5) three and one-half cents (\$.035) per kilowatt-hour in the fifth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(6) four cents (\$.04) per kilowatt-hour in the sixth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(7) three and one-half cents (\$.035) per kilowatt-hour in the seventh taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(8) three cents (\$.03) per kilowatt-hour in the eighth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource;

(9) two and one-half cents (\$.025) per kilowatt-hour in the ninth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource; and

(10) two cents (\$.02) per kilowatt-hour in the tenth taxable year in which the geothermal energy production facility produces geothermal energy using a geothermal energy resource.

C. Subject to the limitation provided in Subsection D of this section, a taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. [The total annual aggregate amount of geothermal electricity generation corporate income tax credits and geothermal electricity generation income tax credits that may be certified in any calendar year is five million dollars (\$5,000,000).] 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 application shall include proof that the taxpayer is eligible for certification, including that the geothermal electricity generation facility that produced the energy for which the taxpayer is claiming credit, the geothermal resources

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1       used by the geothermal electricity generation facility and the  
2       taxpayer's interest in the geothermal electricity generation  
3       facility are in accordance with the definitions set forth in  
4       this section.] For taxpayers approved to receive the credit,  
5       the energy, minerals and natural resources department shall  
6       issue a certificate of eligibility stating the amount of credit  
7       to which the taxpayer is entitled and the taxable year in which  
8       the credit may be claimed. The certificate of eligibility  
9       shall be numbered for identification and declare the date of  
10      issuance and the amount of the tax credit allowed. The energy,  
11      minerals and natural resources department shall provide the  
12      department with the certificates of eligibility issued pursuant  
13      to this subsection in an electronic format at regularly agreed-  
14      upon intervals.

15           D. The total annual aggregate amount of credits  
16      that may be certified for geothermal energy production income  
17      tax credits and geothermal energy production corporate income  
18      tax credits in a calendar year is fifty-five million dollars  
19      (\$55,000,000); provided that eleven million dollars  
20      (\$11,000,000) of the total annual aggregate amount shall be  
21      reserved for applications submitted by tribal businesses and  
22      small businesses. If the total aggregate amount pursuant to  
23      this section is not met in a calendar year, the difference may  
24      be added to the total annual aggregate amount allowed for the  
25      following calendar year.

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1                   E. A certificate of eligibility for the tax credit  
2 may be sold, exchanged or otherwise transferred to another  
3 taxpayer for the full value of the credit. The parties to such  
4 a transaction shall notify the department of the sale, exchange  
5 or transfer within ten days of the sale, exchange or transfer  
6 in an electronic format prescribed by the department.

7                   [D.] F. A taxpayer may claim a geothermal  
8 ~~[electricity generation]~~ energy production corporate income tax  
9 credit for the taxable year in which ~~electricity was~~  
10 ~~generated~~ geothermal energy was produced in New Mexico by a  
11 geothermal ~~electricity generation~~ energy production facility  
12 in which the taxpayer holds an interest. To receive the credit  
13 provided by this section, a taxpayer shall apply to the  
14 department on forms and in the manner prescribed by the  
15 department. The application shall include a certificate of  
16 eligibility issued pursuant to Subsection C of this section.

17                   [E.] G. That portion of a credit that exceeds a  
18 taxpayer's tax liability in the taxable year in which the  
19 credit is claimed shall not be refunded but may be carried  
20 forward for up to three consecutive years.

21                   [F.] ~~A taxpayer allowed a tax credit pursuant to~~  
22 ~~this section shall report the amount of the credit to the~~  
23 ~~department in a manner required by that department.~~

24                   G.] H. The tax credit provided by this section  
25 shall be included in the tax expenditure budget pursuant to

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1       Section 7-1-84 NMSA 1978, including the annual aggregate cost  
2       of the tax credit.

3               [H.] I. As used in this section:

4               (1) "geothermal ~~[electricity generation]~~  
5       energy production facility" means a facility located in New  
6       Mexico that ~~[generates electricity]~~ produces and delivers  
7       electricity or thermal energy from geothermal resources for  
8       industrial, commercial or residential use and:

9                       (a) for new facilities, begins  
10      construction on or after January 1, 2025; or

11                       (b) for existing facilities, on or after  
12      January 1, 2025, increases the amount of ~~[electricity~~  
13      generated] geothermal energy produced from geothermal resources  
14      the facility ~~[generated]~~ produced prior to that date by at  
15      least one hundred percent;

16                       (2) "geothermal resources" means the natural  
17      heat of the earth in excess of two hundred fifty degrees  
18      Fahrenheit or the energy, in whatever form, below the surface  
19      of the earth present in, resulting from, created by or that may  
20      be extracted from this natural heat in excess of two hundred  
21      fifty degrees Fahrenheit and all minerals in solution or other  
22      products obtained from naturally heated fluids, brines,  
23      associated gases and steam, in whatever form, found below the  
24      surface of the earth, but excluding oil, hydrocarbon gas and  
25      other hydrocarbon substances and excluding the heating and

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cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geoexchange heat pump or similar on-site system; [and]

(3) "interest in a geothermal [electricity generation] energy production facility" means title to a geothermal [electricity generation] energy production facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility;

(4) "kilowatt-hour of geothermal energy"

means:

(a) one kilowatt-hour of electricity generated; or

(b) one kilowatt-hour of net thermal energy transferred to a purchaser or end user at the point of sale or end-use, as measured at a customer delivery point using calibrated metering equipment that determines thermal energy based on measured flow and measured supply-and-return temperature differential, in accordance with generally accepted

1       industry practice;

2               (5) "small business" means a business located  
3       in New Mexico that employs fifty or fewer full-time employees;  
4       and

5               (6) "tribal business" means a business located  
6       in New Mexico that is owned and operated by an Indian nation,  
7       tribe or pueblo or a member of an Indian nation, tribe or  
8       pueblo."

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

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