

<b>LFC Requester:</b>	None
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** Jan. 27, 2025 *Check all that apply:*  
**Bill Number:** HB 45 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. John Block **Agency Name and Code** State Land Office - 539  
**Short Title:** RENEWABLE ENERGY PRODUCTION TAX ACT **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	Indeterminate Negative	Indeterminate Negative	Recurring	NMSLO - Land Maintenance Fund
None	Indeterminate Positive	Indeterminate Positive	Recurring	Severance Tax Permanent Fund

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 45 would enact a Renewable Energy Production Tax Act and impose a 3.75% excise tax on the taxable value of each megawatt-hour (MWh) of electricity generated from renewable energy resources, which are defined as solar, wind, hydropower, geothermal or biomass. The taxable value would be the wholesale value of electricity established by the United States Energy Information Administration for the southwest regional wholesale market. The taxable event would be generation of the electricity. The wholesale value would be the monthly average wholesale price for the month in which the taxable event occurs.

The bill exempts electricity generated by (1) the U.S. or any agency, department or instrumentality thereof; (2) the state of New Mexico or any political subdivision thereof; (3) an Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory; and (4) a foreign nation or agency, instrumentality or political subdivision thereof, but only when required by a treaty in force to which the U.S. is a party. Electricity generated for personal consumption, including the amount not consumed up to 500 Kwh/day, is also exempt from the tax.

The revenue from this tax would be distributed to the Severance Tax Permanent Fund. The tax would be effective January 1, 2026.

#### **FISCAL IMPLICATIONS**

The new tax would likely reduce renewable energy production on state trust lands as well as the amount the agency would be able to charge in future leases, thus reducing New Mexico State Land Office (NMSLO) revenues in an undetermined amount. Money earned by the NMSLO supports public schools, universities and hospitals throughout the state and is money that is not required to come from taxpayers. As such, any decrease in NMSLO earnings would result in a reduction in a revenue offset for the General Fund, which in turn would mean that taxpayers must shoulder the difference.

The NMSLO manages about nine million acres of surface estate and 13 million acres of minerals. State trust lands have significant solar, wind, geothermal and biomass potential. HB 45 will have a negative but undetermined impact on the NMSLO's ability to generate lease revenue from these uses. Wind and solar energy development are poised to play a significant role in the NMSLO's ongoing efforts to diversify revenue streams, and the various existing and anticipated projects are expected to generate hundreds of millions of dollars (over the life of the projects, which generally range between 30-50 years).

NMSLO's Office of Renewable Energy (ORE) earned over \$20 million over the last four fiscal years, and \$6.1 million so far in FY25. There are 82 active solar and wind leases, with 31

pending applications. Wind leases have provided about 85% of that revenue, yet most of the NMSLO's large wind farm leases are still in the development stage with significant anticipated revenue increases once the projects are operational. Once these projects start to sell power, the NMSLO receives substantially higher base rents and percent of revenue rent payments. Revenues from existing leases will increase over time absent any further disincentive to develop as initially planned.

Considering the number of leases still in development as well as the size of the applications, ORE revenues will likely be consistently in the tens of millions in the near term and in the hundreds of millions in the longer term. The state's overall financial gain from this excise tax would be offset to some extent by the, predictable if not quantifiable, loss of lease revenue experienced by the NMSLO. Moreover, an undetermined number of project proponents may move to other states to avoid the additional tax burden imposed by HB 45.

The NMSLO also receives significant revenue from transmission lines that are related to the growth of renewable resources. For example, the NMSLO is expected to receive about \$50 million for the SunZia transmission line. The agency is also in the process of updating its geothermal rule to position it to take advantage of revenue-generating opportunities in that context. This effort may also be negatively impacted by the proposed excise tax.

## **SIGNIFICANT ISSUES**

New Mexico has begun to realize its enormous potential for wind, solar and geothermal energy development. By virtue of New Mexico's abundant renewable energy resources and the location of state trust lands, NMSLO is an attractive partner for renewable energy development. New Mexico's Energy Transition Act (ETA) and Renewable Portfolio Standards (RPS) across the U.S. are also driving significant demand for renewable energy development on state trust land.

Taxing renewable energy production will have a significant negative impact on the renewable energy industry in New Mexico in general and on the NMSLO ongoing efforts to diversity and increase sustainable revenue streams specifically. Consider the example provided by Wyoming; after Wyoming passed a \$1 per MW/hr tax on wind power generation, total wind power generation in that state went flat during the same time that other states without a similar tax experienced an increase in wind development. If an excise tax on all renewable electricity generation was implemented in New Mexico, the same result could be expected, stagnating development of these sustainable energy resources on state trust land and across the state. New Mexico has tremendous renewable energy potential, but it is not the only state where these opportunities exist.

Imposing a new tax specifically on renewable energy production will have a significant negative impact on the renewable energy industry in New Mexico in general and specifically on the NMSLO's ongoing efforts to diversity and increase sustainable revenue streams. The new tax would negatively impact the NMSLO's diversification efforts in at least three ways. First, it will decrease the size and volume of new applications coming into to ORE. Second, it may also decrease the likelihood that all the existing leases will move forward into an operational status. Third, it may decrease the recent interest in emerging areas, such as geothermal development.

## **PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**AMENDMENTS**