BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 22, 2025

Bill: HB-45 **Sponsor:** Representative John Block

Short Title: Renewable Energy Production Tax Act

Description: This bill enacts a renewable energy production tax on electricity generated from renewable energy resources at a rate of 3.75 percent of the taxable value of each megawatt-hour. The taxable value for electricity generated from renewable energy resources shall be the wholesale value of electricity established by the United States Energy Information Administration (EIA) for the southwest regional wholesale market, calculated on a monthly-average basis. The bill provides exemptions to this tax, including for personal consumption of the renewable energy, including excess energy generated and sold back to a utility, subject to a daily cap. The due date of the tax is the 25th day of the month following the month in which the taxable event occurred.

The bill makes minor technical corrections to the Tax Administration Act related to contingent implementation of the Health Care Delivery and Access Act.

Effective Date: The effective date of the provisions of Sections 1 through 5 and 7 is January 1, 2026. Section 6 is 90 days following adjournment (June 20, 2025). The provisions of this act apply to the production of electricity from renewable energy resources beginning on and after January 1, 2026.

Taxation and Revenue Department Analyst: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	$22,450	$46,200	$47,500	$48,900	R	Severance Tax Permanent Fund

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

Methodology for Estimated Revenue Impact:

In 2023, wind power accounted for 38% of New Mexico in-state electricity generation, approximately twice as much as three years prior. Natural gas is the second largest source, followed by coal.

Since 2010, over 2,500 megawatts of the state's coal-fired electric generating capacity have been retired. To compensate for the decline in coal-fired generation, natural gas, wind and solar have risen as a share of generating capacity. All of New Mexico's planned additions to electricity generating capacity are focused on solar photovoltaic (PV), wind, natural gas, and battery installations[1].

In 2023, a combination of utility-scale (1 megawatt and larger) and small-scale (less than 1 megawatt) facilities contributed to renewable resources supplying approximately 45% of New Mexico's in-state electricity net generation[2]. New Mexico is recognized as one of the leading states in terms of wind energy

[1] U.S. EIA, Electricity, Preliminary Monthly Electric Generator Inventory (based on Form EIA-860M as a supplement to Form EIA-860), Inventory of Planned Generators as of November 2024.
[2] U.S. EIA, Electricity Data Browser, Net generation for all sectors, New Mexico, All fuels, Conventional hydroelectric, Other renewables (total), Small-scale solar photovoltaic, Annual, 2001--23.

potential[3]. According to the Solar Energy Industries Association, New Mexico possesses sufficient installed solar energy capacity to provide power to more than 662,000 homes. Currently, slightly over 10% of the state's electricity is generated from solar panels, and the residential solar market has experienced consistent growth in recent years. In 2023, the largest increase in solar capacity in New Mexico occurred in the residential and utility-scale market segments[4]. Another 1,800 megawatts of solar power capacity and related battery energy storage are scheduled to come online in the state during 2024[5].

To estimate the fiscal impact of the proposed bill, Tax & Rev assumed that 4% of the total renewable electricity is subject to the exemption offered in the bill, using the percentage of net generation of small-scale solar photovoltaic to total renewable energy generation for New Mexico provided by the U.S. Energy Information Administration[6]. As 45% of New Mexico's electricity generation is from renewable energy, this results in 41% of New Mexico's renewable energy generation being subject to the tax. Next, the average annual growth of revenues was calculated at 2.84%, based on the EIA's average annual prices and renewable energy production in New Mexico from 2011 to 2023. Using revenues as the proxy for taxable value, Tax & Rev projected the revenues through FY2029 using this growth rate. The 3.75% tax rate was then applied. For FY2026, the estimated revenue impact is for a half-year as the effective date of this bill is January 1, 2026.

Policy Issues: This proposed tax conflicts with several current tax incentives, including the following:

- Renewable energy production tax credit
- 2021 Sustainable Building Tax Credit
- Advanced Energy Equipment Tax Credit
- Alternative Energy Product Manufacturers Tax Credit

Taxing renewable energy production at the same time as offering tax incentives is counter to the equity and efficiency principles of tax policy. "Efficiency denotes whether policies benefit economic growth. Tax policy experts agree that all taxes potentially affect or distort economic behavior by making certain economic choices more or less attractive, and that these effects on the economy are complicated." Removing renewable energy tax incentives would demonstrate in tax policy clarity that renewable energy generation is to be taxed as it is no longer of need of tax incentives.

However, as oil and gas production declines, resulting in reduced severance tax revenues, and as the State increasingly switches over to renewable energy generation, new sources of revenue must be found. As the renewable energy industry matures, policymakers will need to consider removing subsidies for renewable energy, and then taxing them in order to diversify the State's revenues**.** However, it is clear that providing incentives for the production and use of renewable energy while also taxing such production is poor tax policy, and will lead to confusion both for taxpayers and administrators.

Tax & Rev cautions on the proliferation of individual tax programs aimed at one activity, as this results in a more complicated and burdensome tax structure. This issue is, in part, demonstrated by the nearly $4 million Tax & Rev implementation cost of this bill identified under Administrative & Compliance Impact, below. An alternative to this proposal would be to review provide for taxation of renewable energy under

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[3] U.S. Department of Energy, Energy Efficiency and Renewable Energy, WINDExchange, U.S. Installed and Potential Wind Power Capacity and Generation, Potential, U.S. Potential Wind Capacity in Megawatts (MW) at 80 Meters, accessed January 24, 2024.

[4] https://www.greenlancer.com/post/solar-power-new-mexico#:~:text=In%20fact%2C%20New%20Mexico%20has,been%20steady%20in%20recent%20years.

[5] U.S. EIA, State Energy Profiles, accessed January 2025.

[6] U.S. EIA, Electricity Data Browser, Net generation for all sectors, New Mexico, All fuels, Conventional hydroelectric, Other renewables (total), Small-scale solar photovoltaic, Annual, 2001--23.

the gross receipts tax. These business receipts could be brought into the GRT base, and if a lower tax rate were desired, a partial (for example 50%) deduction could be considered. Taxing this activity under an existing tax program would result in much greater efficiency.

• **Executive Order 2019-003 & The Proposed Bill HB-150: Renewable Energy Production Tax Act**

Executive Order 2019-003, titled "Addressing Climate Change and Energy Waste Prevention," was issued by Gov. Michelle Lujan Grisham on January 29, 2019. The order focuses on addressing climate change, promoting renewable energy, and reducing energy waste in the state of New Mexico.

The key provisions of Executive Order 2019-003 include:

1. Climate Change Task Force: The order establishes a Climate Change Task Force to develop recommendations and strategies for mitigating climate change impacts in New Mexico. The task force consists of various state agency representatives, experts, and stakeholders who collaborate to develop policies and initiatives.

2. Renewable Energy Portfolio Standards: The order directs the New Mexico Energy, Minerals, and Natural Resources Department to propose an increase in the state's renewable energy portfolio standards (RPS). The RPS mandates that a certain percentage of electricity consumed in the state comes from renewable sources such as wind, solar, and geothermal energy.

3. Methane Emissions Reduction: The order calls for the development and implementation of regulations to reduce methane emissions from oil and gas operations in New Mexico. It aims to address methane leakage, a potent greenhouse gas, and promote responsible energy production.

4. Energy Efficiency and Conservation: The order emphasizes the importance of energy efficiency and conservation measures. It directs state agencies to prioritize energy efficiency projects, reduce energy waste, and promote energy-saving practices in government buildings and operations.

5. Clean Energy Innovation Fund: The order establishes the Clean Energy Innovation Fund to support research, development, and commercialization of clean energy technologies in New Mexico. The fund aims to accelerate the transition to a clean energy economy and attract investment in renewable energy projects.

A tax on electricity produced from renewable sources in New Mexico could potentially have adverse effects on electricity production and the state's ability to achieve the goals set in Governor's Executive Order 2019-003. More specifically, such a tax could impact New Mexico's renewable energy sector, and the goals outlined in the executive order:

1. Renewable energy investment: Taxes on renewable electricity production may discourage investment in new renewable energy projects and may conflict against existing incentives, creating confusion among taxpayers. This could impede the development of additional renewable energy capacity needed to achieve the targets set in the executive order. Without sufficient investment, it could be challenging to expand renewable electricity production and meet the renewable energy goals within the specified timeline.

2. Renewable energy affordability: Taxes on renewable electricity could lead to increased costs for consumers. This could make renewable energy less financially viable for households and businesses, potentially reducing demand for renewable electricity. Affordability plays a crucial role in promoting the adoption of renewable energy sources, and any additional taxes on

renewable electricity could hinder the affordability aspect.

3. Market competitiveness: New Mexico's executive order outlines the goal of achieving a carbon-free electricity grid by 2045. To meet this objective, the state may need to export excess renewable electricity to neighboring regions or states. However, if a tax is imposed on renewable electricity, it could reduce the competitiveness of New Mexico's renewable energy exports. This could limit the state's ability to expand renewable energy production and hinder its progress toward a carbon-free grid.

4. Economic impact: The renewable energy sector in New Mexico has been an essential driver of economic growth and job creation. Imposing a tax on renewable electricity could negatively impact the industry, potentially leading to job losses and reduced economic activity. This could hinder the state's ability to achieve the economic and job creation goals outlined in the executive order.

Technical Issues:

[**Section 2]**
The definition of "renewable energy resources" on page 2, lines 5-11, is broadly consistent with the definition of that term in the Renewable Energy Act, Sec. 62-16-3 NMSA 1978. However, to make the definitions consistent, Tax & Rev recommends adding the words, "not to exceed eight inches" after the words, "small diameter timber" on page 2, line 8, and possibly using the complete definition from the Renewable Energy Act for this definition.

[Sections 6, 8 - 10]
In conjunction to the addition of this act in the Tax Administration Act, the bill also amends existing references to the Health Care Delivery and Access Act that it is subject to the TAA provided the contingency statute is met. Therefore, these changes related to the Health Care Delivery and Access Act are not necessary.

Other Issues: None.

Administrative & Compliance Impact:
This bill proposes the implementation of a new excise tax. Tax & Rev will need to create and publish new forms and publications, make changes to information systems, and create new regulations. Tax & Rev will need to test system changes and train employees on the administration of the proposed tax act.

Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 680 hours from the work of two staff one at a pay-band 70 and the other at a pay-band 80. The staff will be testing, creating new reports and establishing new revenue distributions. Once implemented, 1 additional full-time employee (FTE) will be required to process this new tax program on an on-going basis at a pay band level 70. This will result in $40 thousand in staff workload costs and $97 thousand in recurring costs for 1 new FTE.

The implementation of this bill will result in a significant impact on Tax & Rev's Information Technology Division (ITD), requiring approximately 9-12 months and incurring contractual costs of approximately $3,441,193. This cost breakdown includes $3,210,313 for contractual resources and an additional $230,880 for staff workload costs. Considering the nature and complexity of the effort needed to implement the proposed changes, a contract with the GenTax vendor, FAST Enterprises, LLC, is necessary. In addition to the contract with FAST, there will be a need for a full-time contract project manager and Independent Verification and Validation (IV&V) contract services would also be necessary.

The staff workload costs require one state development resource and one state business analyst for the project's duration. After implementation is complete, one application developer, one business analyst and one database/system administrator FTE will be needed for ongoing operations and support.

The addition of a new tax program necessitates collaboration between the Revenue Processing Division (RPD) and the Taxpayer Information and Processing Office (TIPO). This collaboration is required for the creation of forms and instructions, as well as the implementation of the new tax program. Such an undertaking demands a dedicated resource for project implementation, along with associated costs for stakeholders. While the impact on taxpayers may be limited to a small population, the efforts required from RPD resources will be substantial. Tax & Rev's Revenue Processing Division (RPD) estimates that implementing this bill requires 3 FTEs dedicated to the project for a total cost of $83 thousand in staff workload. In additional internal systems to process a new tax program will need to be updated. Further, the Special Tax Programs Business Unit within RPD has added several new tax programs over the past few years. Implementing this new tax program will require additional staff to aid in the workload and will need a reduction in the forced vacancy rate to be equal to one position. This FTE is based on a Tax Examiner Advanced, pay band 60.

Tax & Rev's Audit and Compliance Division (ACD) estimates that it will need a reduction of the forced vacancy rate to be equal to 2 FTE employees to process and test the new tax program, perform registration, collection and audit functions on a reoccurring basis. The 2 FTEs are based at a pay band 70.

Considering the complexity and effort required for the implementation of this bill, meeting the effective date of January 1, 2026, will be challenging. Tax & Rev suggests an implementation date of July 1, 2026.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$40.4	--	$40.4	NR	Tax & Rev - ASD - operating
--	--	$96.9	$96.9	R	Tax & Rev - ASD - FTE
$802.6	$2,407.7	--	$3,210.3	NR	Tax & Rev - ITD - contractual
$57.7	$173.2	--	$230.9	NR	Tax & Rev - ITD - staff workload
--	--	$213.0	$231.0	R	Tax & Rev - ITD - FTE
--	--	$83.2	$83.2	NR	Tax & Rev - RPD - staff workload
--	$193.8	$193.8	$387.6	R	Tax & Rev – ACD - FTE

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Similar to HB-150 from 2024 regular session