

LFC Requester: _____

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{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}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date Jan 07, 2025

Bill No: HB 45

Sponsor: Rep. John Block
Short Title: Renewable Energy Production Tax

Agency Name and Code Number: EMNRD 521

Person Writing: Samantha Kao
Phone: _____ **Email:** samantha.kao@emnrd.nm.gov

SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 45 would impose an excise tax of 3.75% per megawatt hour on large-scale renewable energy production in New Mexico starting on January 1, 2026. This would apply to electricity made from solar, wind, geothermal, hydropower, and biomass. The taxable value of the electricity would be determined by the price on the wholesale market during the month the power is produced.

FISCAL IMPLICATIONS

The forecasts below were generated with monthly Energy Information Administration (EIA) data on net electricity generation in New Mexico and historical Palo Verde wholesale electricity hub prices (Figs.1 and 2). (Previous forecasts provided in prior analyses of this bill utilized EIA data for all fuel sources on a yearly basis and using an annual average of Northern California, Southern California, and Palo Verde Hub wholesale prices, resulting in an overestimation of this bill's true revenue impact.) EMNRD focused on wind and utility-scale solar net generation as reported in EIA Form 923-M to establish monthly MWh values, given these two resources constitute the overwhelming majority of statewide renewable generation. Forecasts were determined using a weighted average of seasonal change trends and year-over-year momentum with baked-in controls to reflect diminishing growth rates over time. Palo Verde wholesale electricity hub prices were forecast with an identical methodology (but with 2022 and 2023 percentage change values removed from seasonal average and year-over-year momentum calculations, given Ukraine-related distortions in the global natural gas market). The two forecasts were multiplied for each month to calculate the revenue base for a 3.75% tax. EMNRD notes that wholesale electricity prices are highly volatile and sensitive to external events in global commodity markets, making the precise fiscal impact of a renewable energy excise tax difficult to ascertain.

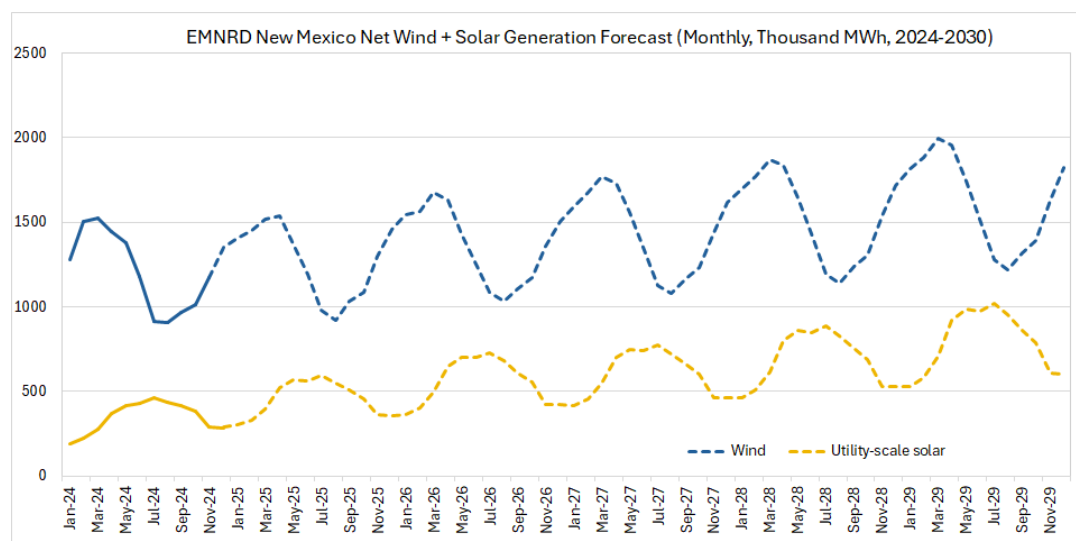


Fig. 1

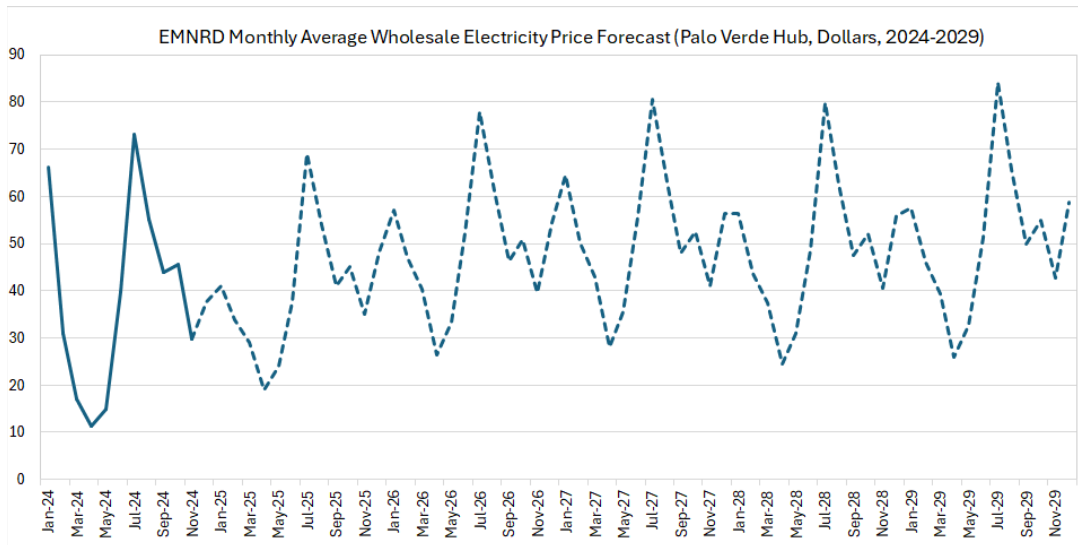


Fig. 2

	2024	2025	2026	2027	2028	2029
Total Renewable Generation (MWh)	18,803,973	20,734,316.02	23,085,944.48	24,634,805.05	26,703,415.06	29,096,021.59
Taxable Revenue	\$696,331,064.48	\$802,518,554.97	\$1,110,478,593.50	\$1,247,838,576.92	\$1,266,019,271.06	\$1,448,366,179.92
Excise Tax Revenue	\$26,112,414.92	\$30,094,445.81	\$41,642,947.26	\$46,793,946.63	\$47,475,722.66	\$54,313,731.75

SIGNIFICANT ISSUES

EMNRD notes that an excise tax of 3.75% levied on large-scale renewable energy generation in New Mexico would have added an additional cost of roughly \$3 per megawatt-hour generated during peak months in 2024. Such a tax would artificially raise the levelized costs of utility-scale solar production and onshore wind production, currently the most cost-effective sources of electricity generation (Fig. 4), likely resulting in higher electricity prices for end-users – New Mexican residents and businesses. Such price distortion could impact decision making at utilities, as they choose “least cost” resources to dispatch, resulting in imprudent investments by the utilities, and inflated rates for electricity consumers in the state. Roughly a quarter of households¹ in New Mexico are classified by the Department of Energy as “highly energy burdened,” meaning their energy costs are greater than or equal to 6% of their income. An excise tax on the cheapest sources of electricity would further strain the ability of many New Mexicans to meet their monthly expenses, particularly those least able to afford it. Moreover, increasing the cost of service to industrial and commercial customers in the state could hinder statewide economic development efforts to attract electricity-intensive businesses in manufacturing, artificial intelligence, and transportation.

¹ The U.S. Census Bureau’s 2022 American Community Survey estimates 196,612 households in New Mexico have an energy burden at or above 6%.

Levelized Cost of Energy Comparison—Unsubsidized Analysis

Selected renewable energy generation technologies are cost-competitive with conventional generation technologies under certain circumstances

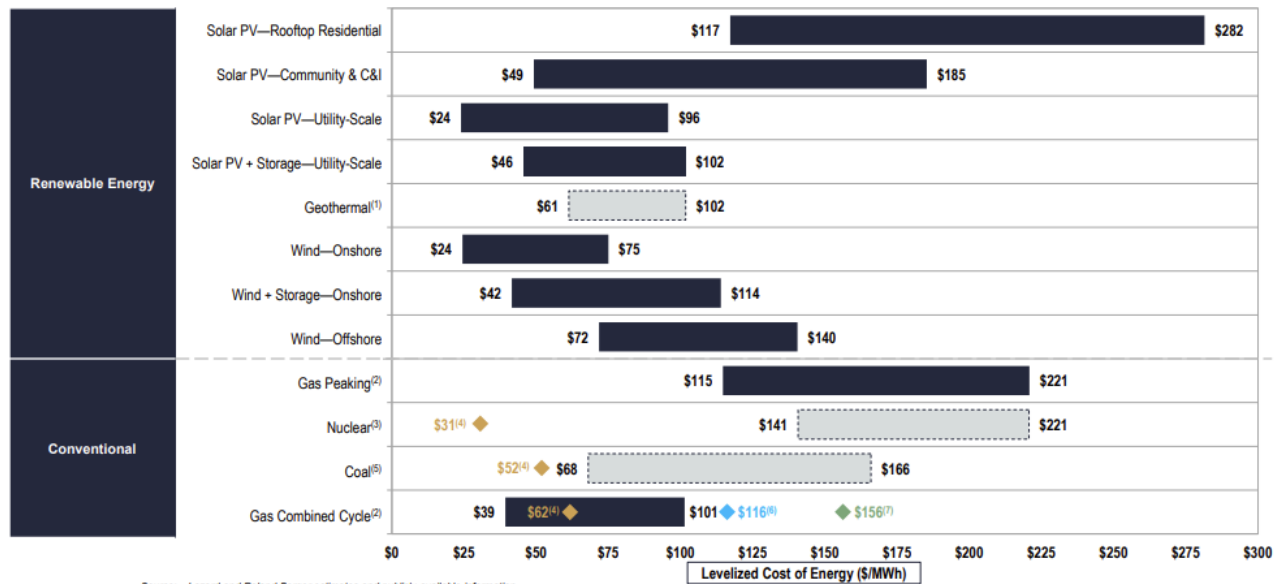


Fig. 4

The proposed tax is applied against an average cost of renewable energy as defined by the EIA, instead of against the actual contracted rate for that energy. This would have the effect of making the practical tax rate widely variable depending on the underlying contractual rate of the energy.

PERFORMANCE IMPLICATIONS

None directly for EMNRD

ADMINISTRATIVE IMPLICATIONS

None directly for EMNRD

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There is tension between the Energy Transition Act, the current Severance Tax Act, and HB 45.

The Renewable Energy Act at Section 62-16-6 NMSA provides for cost recovery from utility customers for the costs of adopting renewable energy measures aimed at meeting the state’s renewable energy goals. Those costs are to be deemed reasonable by the Public Regulation Commission.

Further, HB 45 would work directly against current state tax credits for geothermal electricity generation, renewable electricity production, and agricultural biomass transportation for electricity generation purposes.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Electricity made using renewable sources has not been charged a severance tax because it is not a “natural resource,” which is defined in the current Severance Tax Act as “timber and any metalliferous or nonmetalliferous mineral product, combination or compound thereof but does not include oil, natural gas, liquid hydrocarbon, individually or any combination thereof, or carbon dioxide.” Additionally, a severance tax implies that there is a permanent severance of the natural

resource from the state, which does not occur during the production of electricity from wind or solar, which are renewable. This tax could artificially raise energy prices, impacting rate payers directly, and possibly decreasing renewable generation, which would counter the benefits of any marginal (?) increase of revenue to the Severance Tax Permanent Fund.

For geothermal generation resources specifically, this tax would only serve to hurt a fledgling industry that has the potential to play a critical role in supplying New Mexico's grid with clean, firm power. Geothermal is still a relatively expensive generation source and a tax on an up-and-coming industry would slow the development of a new industry in the state and make New Mexico less competitive with other Western states seeking to develop a geothermal industry. The value to rate payers of supporting a geothermal industry in New Mexico dwarfs the amount of excise tax to be collected from potential geothermal power plants.

Finally, HB 45's tax would undermine the strategic planning at utilities, currently underway, to successfully meet the targets of the Energy Transition Act.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Electricity made using renewable resources will continue to be an important part of a grid that helps meet the requirements of the Energy Transition Act and delivers affordable and reliable electricity to New Mexicans. Additionally, the utility customers of the state will not pay double.

AMENDMENTS