

1 HOUSE BILL 45
2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY
4 John Block
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10 AN ACT

11 RELATING TO TAXATION; ENACTING THE RENEWABLE ENERGY PRODUCTION
12 TAX ACT; IMPOSING AN EXCISE TAX ON ELECTRICITY GENERATED FROM
13 RENEWABLE ENERGY RESOURCES; DISTRIBUTING REVENUE FROM THE TAX
14 TO THE SEVERANCE TAX PERMANENT FUND; AMENDING AND REPEALING
15 CERTAIN SECTIONS OF THE NMSA 1978 AND LAWS 2024, CHAPTER 41
16 THAT ENACTED THE HEALTH CARE DELIVERY AND ACCESS ACT TO CONFORM
17 THE CONTINGENT EFFECTIVE DATE AND DELAYED REPEAL OF THAT ACT.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
21 through 5 of this act may be cited as the "Renewable Energy
22 Production Tax Act".

23 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Renewable Energy Production Tax Act:

25 A. "department" means the taxation and revenue

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1 department;

2 B. "generating facility" means a facility that
3 produces electricity by the use of renewable energy resources;
4 and

5 C. "renewable energy resource" means solar, wind,
6 hydropower, geothermal or biomass used as an energy resource.
7 As used in this subsection, "biomass" includes agriculture or
8 animal waste, small diameter timber, salt cedar and other
9 phreatophyte or woody vegetation removed from river basins or
10 watersheds in New Mexico, landfill gas and anaerobically
11 digested waste biomass.

12 SECTION 3. ~~[NEW MATERIAL]~~ IMPOSITION OF TAX--RATE--
13 TAXABLE VALUE--DENOMINATION AS "RENEWABLE ENERGY PRODUCTION
14 TAX".--

15 A. For the privilege of generating electricity from
16 renewable energy resources, there is imposed on a generating
17 facility an excise tax equal to three and three-fourths percent
18 of the taxable value of each megawatt-hour, or portion thereof,
19 of electricity generated from renewable energy resources in
20 this state.

21 B. The taxable value for electricity generated from
22 renewable energy resources shall be the wholesale value of
23 electricity established by the United States energy information
24 administration for the southwest regional wholesale market.
25 The taxable event occurs when the electricity is generated.

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1 The wholesale value shall be the monthly average wholesale
2 price for the month in which the taxable event occurs.

3 C. The tax imposed by this section shall be known
4 as the "renewable energy production tax".

5 SECTION 4. [NEW MATERIAL] EXEMPTIONS.--

6 A. Exempted from the renewable energy production
7 tax is electricity produced from renewable energy resources by:

8 (1) the United States or any agency,
9 department or instrumentality thereof;

10 (2) the state of New Mexico or any political
11 subdivision thereof;

12 (3) any Indian nation, tribe or pueblo from
13 activities or transactions occurring on its sovereign
14 territory; or

15 (4) any foreign nation or agency,
16 instrumentality or political subdivision thereof, but only when
17 required by a treaty in force to which the United States is a
18 party.

19 B. Exempted from the renewable energy production
20 tax is electricity produced from renewable energy resources for
21 the personal consumption of the producer, including any excess
22 production of electricity not consumed by the producer that
23 does not exceed five hundred kilowatt-hours in a twenty-four-
24 hour period.

25 SECTION 5. [NEW MATERIAL] DATE PAYMENT DUE.--The tax

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1 imposed by the Renewable Energy Production Tax Act is to be
2 paid on or before the twenty-fifth day of the month following
3 the month in which the taxable event occurs.

4 SECTION 6. Section 7-1-2 NMSA 1978 (being Laws 1965,
5 Chapter 248, Section 2, as amended) is amended to read:

6 "7-1-2. APPLICABILITY.--The Tax Administration Act
7 applies to and governs:

8 A. the administration and enforcement of the
9 following taxes or tax acts as they now exist or may hereafter
10 be amended:

- 11 (1) Income Tax Act;
- 12 (2) Withholding Tax Act;
- 13 (3) Oil and Gas Proceeds and Pass-Through
14 Entity Withholding Tax Act;
- 15 (4) Gross Receipts and Compensating Tax Act,
16 Interstate Telecommunications Gross Receipts Tax Act and Leased
17 Vehicle Gross Receipts Tax Act;
- 18 (5) Liquor Excise Tax Act;
- 19 (6) Local Liquor Excise Tax Act;
- 20 (7) any municipal local option gross receipts
21 tax or municipal compensating tax;
- 22 (8) any county local option gross receipts tax
23 or county compensating tax;
- 24 (9) Special Fuels Supplier Tax Act;
- 25 (10) Gasoline Tax Act;

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1 (11) petroleum products loading fee, which fee
2 shall be considered a tax for the purpose of the Tax
3 Administration Act;

4 (12) Alternative Fuel Tax Act;

5 (13) Cigarette Tax Act;

6 (14) Estate Tax Act;

7 (15) Railroad Car Company Tax Act;

8 (16) Investment Credit Act, rural job tax
9 credit, Laboratory Partnership with Small Business Tax Credit
10 Act, Technology Jobs and Research and Development Tax Credit
11 Act, Film Production Tax Credit Act, Affordable Housing Tax
12 Credit Act and high-wage jobs tax credit;

13 (17) Corporate Income and Franchise Tax Act;

14 (18) Uniform Division of Income for Tax
15 Purposes Act;

16 (19) Multistate Tax Compact;

17 (20) Tobacco Products Tax Act;

18 (21) the telecommunications relay service
19 surcharge imposed by Section 63-9F-11 NMSA 1978, which
20 surcharge shall be considered a tax for the purposes of the Tax
21 Administration Act;

22 (22) the Insurance Premium Tax Act;

23 (23) the Health Care Quality Surcharge Act;

24 [and]

25 (24) the Cannabis Tax Act;

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1 (25) the Health Care Delivery and Access Act;
2 provided that the contingency pursuant to Laws 2024, Chapter
3 41, Section 14 is met; and

4 (26) the Renewable Energy Production Tax Act;

5 B. the administration and enforcement of the
6 following taxes, surtaxes, advanced payments or tax acts as
7 they now exist or may hereafter be amended:

- 8 (1) Resources Excise Tax Act;
- 9 (2) Severance Tax Act;
- 10 (3) any severance surtax;
- 11 (4) Oil and Gas Severance Tax Act;
- 12 (5) Oil and Gas Conservation Tax Act;
- 13 (6) Oil and Gas Emergency School Tax Act;
- 14 (7) Oil and Gas Ad Valorem Production Tax Act;
- 15 (8) Natural Gas Processors Tax Act;
- 16 (9) Oil and Gas Production Equipment Ad
17 Valorem Tax Act;
- 18 (10) Copper Production Ad Valorem Tax Act;
- 19 (11) any advance payment required to be made
20 by any act specified in this subsection, which advance payment
21 shall be considered a tax for the purposes of the Tax
22 Administration Act;
- 23 (12) Enhanced Oil Recovery Act;
- 24 (13) Natural Gas and Crude Oil Production
25 Incentive Act; and

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1 (14) intergovernmental production tax credit
2 and intergovernmental production equipment tax credit;

3 C. the administration and enforcement of the
4 following taxes, surcharges, fees or acts as they now exist or
5 may hereafter be amended:

6 (1) Weight Distance Tax Act;

7 (2) the workers' compensation fee authorized
8 by Section 52-5-19 NMSA 1978, which fee shall be considered a
9 tax for purposes of the Tax Administration Act;

10 (3) Uniform Unclaimed Property Act (1995);

11 (4) 911 emergency surcharge and the network
12 and database surcharge, which surcharges shall be considered
13 taxes for purposes of the Tax Administration Act;

14 (5) the solid waste assessment fee authorized
15 by the Solid Waste Act, which fee shall be considered a tax for
16 purposes of the Tax Administration Act;

17 (6) the water conservation fee imposed by
18 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
19 for the purposes of the Tax Administration Act; and

20 (7) the gaming tax imposed pursuant to the
21 Gaming Control Act; and

22 D. the administration and enforcement of all other
23 laws, with respect to which the department is charged with
24 responsibilities pursuant to the Tax Administration Act, but
25 only to the extent that the other laws do not conflict with the

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1 Tax Administration Act."

2 SECTION 7. A new section of the Tax Administration Act is
3 enacted to read:

4 "[NEW MATERIAL] DISTRIBUTION--RENEWABLE ENERGY PRODUCTION
5 TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
6 shall be made to the severance tax permanent fund equal to the
7 net receipts attributable to the renewable energy production
8 tax."

9 SECTION 8. Section 7-1-8.8 NMSA 1978 (being Laws 2019,
10 Chapter 87, Section 2, as amended) is amended to read:

11 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
12 AND LEGISLATIVE AGENCIES.--An employee of the department may
13 reveal confidential return information to the following
14 agencies; provided that a person who receives the information
15 on behalf of the agency shall be subject to the penalties in
16 Section 7-1-76 NMSA 1978 if the person fails to maintain the
17 confidentiality required:

18 A. a committee of the legislature for a valid
19 legislative purpose, return information concerning any tax or
20 fee imposed pursuant to the Cigarette Tax Act;

21 B. the attorney general, return information
22 acquired pursuant to the Cigarette Tax Act for purposes of
23 Section 6-4-13 NMSA 1978 and the master settlement agreement
24 defined in Section 6-4-12 NMSA 1978;

25 C. the commissioner of public lands, return

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1 information for use in auditing that pertains to rentals,
2 royalties, fees and other payments due the state under land
3 sale, land lease or other land use contracts;

4 D. the secretary of [~~human services~~] health care
5 authority or the secretary's delegate under a written agreement
6 with the department:

7 (1) the last known address with date of all
8 names certified to the department as being absent parents of
9 children receiving public financial assistance, but only for
10 the purpose of enforcing the support liability of the absent
11 parents by the child support enforcement division or any
12 successor organizational unit;

13 (2) return information needed for reports
14 required to be made to the federal government concerning the
15 use of federal funds for low-income working families;

16 (3) return information of low-income taxpayers
17 for the limited purpose of outreach to those taxpayers;
18 provided that the [~~human services department~~] health care
19 authority shall pay the department for expenses incurred by the
20 department to derive the information requested by the [~~human~~
21 ~~services department~~] health care authority if the information
22 requested is not readily available in reports for which the
23 department's information systems are programmed;

24 (4) return information required to administer
25 the Health Care Quality Surcharge Act; [~~and~~]

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1 (5) return information in accordance with the
2 provisions of the Easy Enrollment Act; and

3 (6) return information in accordance with the
4 Health Care Delivery and Access Act; provided that the
5 contingency pursuant to Laws 2024, Chapter 41, Section 14 is
6 met;

7 E. the department of information technology, by
8 electronic media, a database updated quarterly that contains
9 the names, addresses, county of address and taxpayer
10 identification numbers of New Mexico personal income tax
11 filers, but only for the purpose of producing the random jury
12 list for the selection of petit or grand jurors for the state
13 courts pursuant to Section 38-5-3 NMSA 1978;

14 F. the state courts, the random jury lists produced
15 by the department of information technology under Subsection E
16 of this section;

17 G. the director of the New Mexico department of
18 agriculture or the director's authorized representative, upon
19 request of the director or representative, the names and
20 addresses of all gasoline or special fuel distributors,
21 wholesalers and retailers;

22 H. the public regulation commission, return
23 information with respect to the Corporate Income and Franchise
24 Tax Act required to enable the commission to carry out its
25 duties;

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1 I. the state racing commission, return information
2 with respect to the state, municipal and county gross receipts
3 taxes paid by racetracks;

4 J. the gaming control board, tax returns of license
5 applicants and their affiliates as provided in Subsection E of
6 Section 60-2E-14 NMSA 1978;

7 K. the director of the workers' compensation
8 administration or to the director's representatives authorized
9 for this purpose, return information to facilitate the
10 identification of taxpayers that are delinquent or noncompliant
11 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
12 1978;

13 L. the secretary of workforce solutions or the
14 secretary's delegate, return information for use in enforcement
15 of unemployment insurance collections pursuant to the terms of
16 a written reciprocal agreement entered into by the department
17 with the secretary of workforce solutions for exchange of
18 information;

19 M. the New Mexico finance authority, information
20 with respect to the amount of municipal and county gross
21 receipts taxes collected by municipalities and counties
22 pursuant to any local option municipal or county gross receipts
23 taxes imposed, and information with respect to the amount of
24 governmental gross receipts taxes paid by every agency,
25 institution, instrumentality or political subdivision of the

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1 state pursuant to Section 7-9-4.3 NMSA 1978;

2 N. the superintendent of insurance, return
3 information with respect to the premium tax and the health
4 insurance premium surtax;

5 O. the secretary of finance and administration or
6 the secretary's designee, return information concerning a
7 credit pursuant to the Film Production Tax Credit Act;

8 P. the secretary of economic development or the
9 secretary's designee, return information concerning a credit
10 pursuant to the Film Production Tax Credit Act;

11 Q. the secretary of public safety or the
12 secretary's designee, return information concerning the Weight
13 Distance Tax Act;

14 R. the secretary of transportation or the
15 secretary's designee, return information concerning the Weight
16 Distance Tax Act;

17 S. the secretary of energy, minerals and natural
18 resources or the secretary's designee, return information
19 concerning tax credits or deductions for which eligibility is
20 certified or otherwise determined by the secretary or the
21 secretary's designee;

22 T. the secretary of environment or the secretary's
23 designee, return information concerning tax credits for which
24 eligibility is certified or otherwise determined by the
25 secretary or the secretary's designee; and

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1 U. the secretary of state or the secretary's
2 designee, taxpayer information required to maintain voter
3 registration records and as otherwise provided in the Election
4 Code."

5 SECTION 9. Laws 2024, Chapter 41, Section 13 is amended
6 to read:

7 "SECTION 13. DELAYED REPEAL.--Sections 1 through 7, 9 and
8 11 of this act are repealed effective July 1, 2030."

9 SECTION 10. REPEALING CERTAIN SECTIONS OF LAWS 2024.--
10 Laws 2024, Chapter 41, Sections 8 and 10 are repealed.

11 SECTION 11. APPLICABILITY.--The provisions of this act
12 apply to the production of electricity from renewable energy
13 resources beginning on and after January 1, 2026.

14 SECTION 12. EFFECTIVE DATE.--The effective date of the
15 provisions of Sections 1 through 5 and 7 of this act is January
16 1, 2026.