FISCAL IMPACT REPORT

		LAST UPDATED	1/26/25
SPONSOR	Block	**ORIGINAL DATE**	1/23/25
SHORT TITLE	Renewable Energy Production Tax Act	**BILL NUMBER**	House Bill 45
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Renewable Energy Production Tax	**$0**	**$21,400**	**$50,100**	**$50,400**	**$54,800**	Recurring	**Severance Tax Permanent Fund**

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	**$860.3**	**$2,621.3**	**$83.2**	**$3,564.8**	Nonrecurring	**General Fund**
TRD	**$0.0**	**$193.8**	**$503.7**	**$697.5**	Recurring	**General Fund**
EMNRD	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	**$0**	Recurring	**General Fund**
Total	**$860.3**	**$2,815.1**	**$586.9**	**$4,262.3**		**General Fund**

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

Sources of Information
LFC Files
Federal Department of Energy
Federal Energy Information Administration

Agency Analysis Received From
Energy, Minerals and Natural Resources Department (EMNRD)
Taxation and Revenue Department (NMTRD)

SUMMARY

House Bill 45 (HB45) proposes the equivalent of a severance tax on the production of renewable energy from all sources, such as solar, wind, hydropower, geothermal, or biomass. This new tax would be imposed at three and three quarters (3.75) percent of the average Palo Verde Nuclear Plant wholesale value for the month of electrical production. Exempted from the tax is production by the state or federal governments or Indian tribes, nations or pueblos and small-scale facilities producing less than 500 kilowatt-hours per day in excess of personal consumption. The proceeds of the tax would be distributed to the severance tax permanent fund but would not be used to determine severance tax bond capacity.

The bill also makes technical amendments to the Tax Administration Act and information which may be disclosed to the Legislature and state agencies to reference the contingencies in the Health Care Delivery and Access Act passed last year (Laws 2024, Chapter 41).

The effective date of the Renewable Energy Production Tax is January 1, 2026, for renewable energy produced after January 1, 2026. The technical amendments concerning the Health Care Delivery and Access Act do not have an effective date and will be effective 90 days after adjournment or June 20, 2025.

FISCAL IMPLICATIONS

Energy, Minerals and Natural Resources Department (EMNRD), Taxation and Revenue Department (TRD), and Legislative Finance Committee (LFC) staff independently estimated the fiscal impact of this bill using similar data sources and methods. The revenue impacts reported on page one are the average of these three forecasts.

TRD Revenue Estimate
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Renewable Energy Production Tax	--	$22,450	$46,200	$47,500	$48,900	Recurring	Severance Tax Permanent Fund

EMNRD Revenue Estimate
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Renewable Energy Production Tax	--	$30,100	$41,600	$46,800	$47,500	Recurring	Severance Tax Permanent Fund

LFC Revenue Estimate
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Renewable Energy Production Tax	--	$21,100	$57,200	$56,200	$61,100	Recurring	Severance Tax Permanent Fund

TRD reports a $4.2 million cost to set up and administer this new tax. TRD's Administrative Services Division anticipates setting up administration of the new tax 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, one additional 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.

The implementation of this bill will have a significant impact on TRD's Information Technology Division (ITD), requiring approximately 9-12 months and incurring contractual costs of approximately $3.4 million.

EMNRD is not assigned any specific duties for this new tax and reports no fiscal or administrative impact for this bill.

SIGNIFICANT ISSUES

The technical amendments related to the Health Care Delivery and Access Act include language related to the implementation contingency for the act. If the federal Centers for Medicare and Medicaid Services fails to approve the implementation and administration of the Health Care Delivery and Access Act, then the inclusion of the new tax in the Tax Administration Act and the changes to information that may be disclosed to the Legislature and other state agencies would not go through.

TRD notes that, as the renewable energy industry matures, policymakers will need to consider removing subsidies for and taxing renewable energy sources in order to diversify the state's revenues. However, 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. TRD highlights how this proposed tax conflicts with several current tax incentives, including the following:

- The Renewable Energy Production Tax Credit,
- The 2021 Sustainable Building Tax Credit,
- The Advanced Energy Equipment Tax Credit, and
- The Alternative Energy Product Manufacturers Tax Credit.

TRD cautions against 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 TRD implementation cost identified in the additional budgetary impact table.

TRD notes that 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, such as reducing statewide greenhouse gas emissions.

TRD states that, since over 40 percent of the general fund and over 95 percent of new revenues for the severance tax permanent fund are attributed to oil and natural gas production, the proposed tax will replace a small portion of the overall contribution of energy production to total revenues. EMNRD points out this tax will likely be passed to retail customers, and the taxes imposed on renewables pursuant to this bill are about a third of taxes imposed on oil and gas production.

The proposed tax is applied against the average cost of renewable energy as defined by the federal Energy Information Administration, 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 energy.

OTHER SUBSTANTIVE ISSUES

EMNRD notes:

> An excise tax of 3.75 percent levied on large-scale renewable energy generation in New Mexico would have added an additional cost of roughly \$3 to \$4 per megawatt-hour generated during peak months in 2024. Such a tax would raise the costs of utility-scale solar production and onshore wind production, the most cost-effective sources of electricity generation, likely resulting in higher electricity prices for end-users – New Mexican residents and businesses…Roughly a quarter (the 2022 American Community Survey estimates 196.6 thousand) of households in New Mexico are classified as "highly energy burdened," meaning their energy costs are greater than or equal to six percent 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 customers could hinder statewide economic development efforts to attract electricity-intensive businesses in manufacturing, artificial intelligence, and transportation.

TECHNICAL ISSUES

TRD notes that the definition of "renewable energy resources" on page 2, lines 5-11, is broadly consistent with the definition of that term in the relevant section of the Renewable Energy Act (62-16-3 NMSA 1978). However, to make the definitions consistent, TRD 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.

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