

HOUSE BILL 150

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

John Block

AN ACT

RELATING TO TAXATION; ENACTING THE RENEWABLE ENERGY PRODUCTION TAX ACT; IMPOSING AN EXCISE TAX ON ELECTRICITY GENERATED FROM RENEWABLE ENERGY RESOURCES; DISTRIBUTING REVENUE FROM THE TAX TO THE SEVERANCE TAX PERMANENT FUND.

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

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

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

A. "department" means the taxation and revenue department;

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

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1 and

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

9 SECTION 3. [NEW MATERIAL] IMPOSITION OF TAX--RATE--
10 TAXABLE VALUE--DENOMINATION AS "RENEWABLE ENERGY PRODUCTION
11 TAX".--

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

18 B. The taxable value for electricity generated from
19 renewable energy resources shall be the wholesale value of
20 electricity established by the United States energy information
21 administration for the southwest regional wholesale market.
22 The taxable event occurs when the electricity is generated.
23 The wholesale value shall be the monthly average wholesale
24 price for the month in which the taxable event occurs.

25 C. The tax imposed by this section shall be known

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1 as the "renewable energy production tax".

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

3 A. Exempted from the renewable energy production
4 tax is electricity produced from renewable energy resources by:

5 (1) the United States or any agency,
6 department or instrumentality thereof;

7 (2) the state of New Mexico or any political
8 subdivision thereof;

9 (3) any Indian nation, tribe or pueblo from
10 activities or transactions occurring on its sovereign
11 territory; or

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

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

22 SECTION 5. [NEW MATERIAL] DATE PAYMENT DUE.--The tax
23 imposed by the Renewable Energy Production Tax Act is to be
24 paid on or before the twenty-fifth day of the month following
25 the month in which the taxable event occurs.

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

3 "7-1-2. APPLICABILITY.--The Tax Administration Act
4 applies to and governs:

5 A. the administration and enforcement of the
6 following taxes or tax acts as they now exist or may hereafter
7 be amended:

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

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- 1 (12) Alternative Fuel Tax Act;
- 2 (13) Cigarette Tax Act;
- 3 (14) Estate Tax Act;
- 4 (15) Railroad Car Company Tax Act;
- 5 (16) Investment Credit Act, rural job tax
- 6 credit, Laboratory Partnership with Small Business Tax Credit
- 7 Act, Technology Jobs and Research and Development Tax Credit
- 8 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 9 Credit Act and high-wage jobs tax credit;
- 10 (17) Corporate Income and Franchise Tax Act;
- 11 (18) Uniform Division of Income for Tax
- 12 Purposes Act;
- 13 (19) Multistate Tax Compact;
- 14 (20) Tobacco Products Tax Act;
- 15 (21) the telecommunications relay service
- 16 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 17 surcharge shall be considered a tax for the purposes of the Tax
- 18 Administration Act;
- 19 (22) the Insurance Premium Tax Act;
- 20 (23) the Health Care Quality Surcharge Act;
- 21 [and]
- 22 (24) the Cannabis Tax Act; and
- 23 (25) the Renewable Energy Production Tax Act;

24 B. the administration and enforcement of the
25 following taxes, surtaxes, advanced payments or tax acts as

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1 they now exist or may hereafter be amended:

2 (1) Resources Excise Tax Act;

3 (2) Severance Tax Act;

4 (3) any severance surtax;

5 (4) Oil and Gas Severance Tax Act;

6 (5) Oil and Gas Conservation Tax Act;

7 (6) Oil and Gas Emergency School Tax Act;

8 (7) Oil and Gas Ad Valorem Production Tax Act;

9 (8) Natural Gas Processors Tax Act;

10 (9) Oil and Gas Production Equipment Ad

11 Valorem Tax Act;

12 (10) Copper Production Ad Valorem Tax Act;

13 (11) any advance payment required to be made

14 by any act specified in this subsection, which advance payment

15 shall be considered a tax for the purposes of the Tax

16 Administration Act;

17 (12) Enhanced Oil Recovery Act;

18 (13) Natural Gas and Crude Oil Production

19 Incentive Act; and

20 (14) intergovernmental production tax credit

21 and intergovernmental production equipment tax credit;

22 C. the administration and enforcement of the
23 following taxes, surcharges, fees or acts as they now exist or
24 may hereafter be amended:

25 (1) Weight Distance Tax Act;

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

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

5 (4) 911 emergency surcharge and the network
6 and database surcharge, which surcharges shall be considered
7 taxes for purposes of the Tax Administration Act;

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

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

14 (7) the gaming tax imposed pursuant to the
15 Gaming Control Act; and

16 D. the administration and enforcement of all other
17 laws, with respect to which the department is charged with
18 responsibilities pursuant to the Tax Administration Act, but
19 only to the extent that the other laws do not conflict with the
20 Tax Administration Act."

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

23 "[NEW MATERIAL] DISTRIBUTION--RENEWABLE ENERGY PRODUCTION
24 TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
25 shall be made to the severance tax permanent fund equal to the

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1 net receipts attributable to the renewable energy production
2 tax."

3 SECTION 8. APPLICABILITY.--The provisions of this act
4 apply to the production of electricity from renewable energy
5 resources beginning on and after January 1, 2025.

6 SECTION 9. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is January 1, 2025.