LFC Requester:	Laird Graeser

AGENCY BILL ANALYSIS
2024 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 x **Amendment** ___
Correction ___ **Substitute** ___

Date Jan 22, 2024
Bill No: HB 150

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

Agency Name and Code Number: EMNRD 521
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
	Indeterminate	Indeterminate	Recurring	General Fund

(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 – N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 150 (HB 150) would impose an excise tax of 3.75% per megawatt hour on large scale renewable energy production in New Mexico starting on January 1, 2025. 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
None for EMNRD directly.

Due to the volatile nature of wholesale electricity prices, EMNRD is unable make an informed projection for revenue generated from this tax. Moreover, the current bill text of HB 150 does not specify which trading hubs in which the price per megawatt hour of electricity would be assessed to determine the taxable value of generation. The Energy Information Administration currently provides data for eight selected electricity trading hubs throughout the U.S. with high, low, and weighted-average index prices for daily electricity trades. Without much more detailed specification, it is impossible to make any specific projections.

EMNRD does note, as detailed below, that while the state may see some financial benefit under HB 150, the excise tax will discourage the renewable industry from locating in New Mexico, as the state will have an unfavorable tax regime as compared to Texas, Colorado, Arizona, and other Mountain West states.

SIGNIFICANT ISSUES
Using wholesale prices reported by EIA at the Palo Verde wholesale trading hub, 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 4-9 dollars per megawatt-hour generated during peak months in 2022. 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. 1), likely resulting in higher consumer electricity prices overall, regardless of source. Price distortion can impact decision making at utilities as they choose least cost resources to dispatch, resulting in imprudent investments and inflated rates for ratepayers in the state.

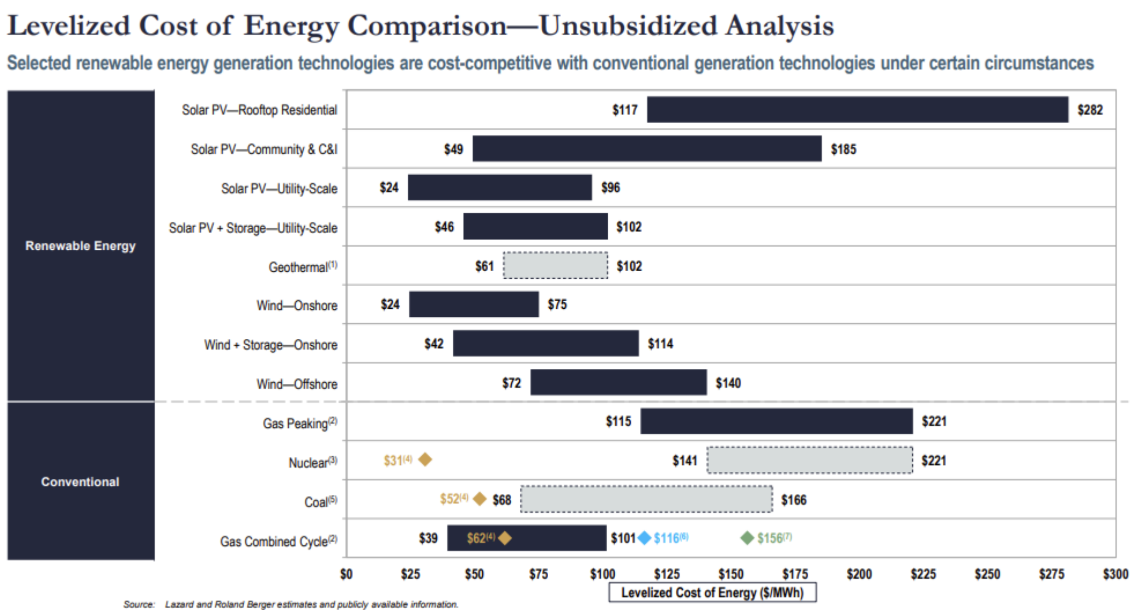

Fig. 1

Furthermore, a severance tax is not an appropriate tax for electricity generated from renewable sources. Up until now, electricity generated 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. Moreover, the current bill text does not specify trading hubs in which the price per megawatt hour of electricity would be assessed, and does not specify which agency – or the Public Regulation Commission – would be the entity determining which market.

Because of existing statutory mandates for growing the percentage of energy delivered to consumers from renewable energy, this tax would raise energy prices, impacting rate payers directly. It may also result in a marginal drop in renewable generation, which could counter the benefits of any increased revenue to the Severance Tax Permanent Fund. Finally, the impact a severance tax would have on rates and strategic planning at utilities could undercut their ability to successfully meet the targets of the Renwable Energy Act, and the Rural Electric Cooperative Act.

PERFORMANCE IMPLICATIONS
None for directly for EMNRD.

ADMINISTRATIVE IMPLICATIONS
None for directly for EMNRD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
There is tension between the Renewable Energy Act, the Rural Electric Cooperative Act, the current Severance Tax Act, and HB 150.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES
N/A

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.

AMENDMENTS
N/A