

HOUSE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CLIMATE; ENACTING THE ZERO EMISSIONS ECONOMY ACT; ESTABLISHING GREENHOUSE GAS EMISSIONS LIMITS; REQUIRING REPORTING; PROVIDING POWERS AND DUTIES; ENACTING NEW SECTIONS OF THE AIR QUALITY CONTROL ACT; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT RULES TO REDUCE GREENHOUSE GAS EMISSIONS; DIRECTING THE ASSESSMENT OF FEES; CREATING A FUND; MAKING AN APPROPRIATION.

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 "Zero Emissions Economy Act".

**SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Zero Emissions Economy Act:**

A. "direct emissions" means greenhouse gas

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1 emissions from sectors or sources that are owned or operated,
2 in whole or in part, by any person and includes electricity
3 generation, both imported and produced in-state; transportation
4 fuels and heating fuels combusted in New Mexico; buildings,
5 structures and other distribution systems; residential,
6 commercial, institutional and industrial waste management; and
7 agricultural, silvicultural and other manufacturing processes;

8 B. "disproportionately impacted communities" means
9 disadvantaged communities or communities or populations of
10 people for which multiple burdens, including environmental and
11 socioeconomic stressors, inequity, poverty, high unemployment,
12 pollution or discrimination, may act to persistently and
13 negatively affect the health, well-being and environment of the
14 communities or populations;

15 C. "greenhouse gas" means gaseous compounds that
16 absorb infrared radiation emitted from the earth's surface and
17 trap heat in the earth's atmosphere, including carbon dioxide,
18 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
19 nitrogen trifluoride and sulfur hexafluoride, but not including
20 water vapor;

21 D. "net-zero emissions" means allowable direct
22 emissions of greenhouse gases are fully offset;

23 E. "offset" means a quantifiable, enforceable,
24 additional, permanent and verifiable greenhouse gases reduction
25 or sequestration by biological, chemical or geological means

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1 from a source or entity that is not otherwise subject to
2 mandatory greenhouse gas emission reduction requirements of the
3 same amount, which reduction or sequestration is measured in
4 terms of metric tons of carbon dioxide equivalent; and

5 F. "state entity" means a cabinet department of the
6 executive branch of state government, the regulation and
7 licensing department, the state land office, the public
8 regulation commission, the New Mexico department of
9 agriculture, the board of regents of the university of New
10 Mexico and the board of regents of New Mexico state university.

11 **SECTION 3. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS**
12 **LIMITS--ESTABLISHED.--**Emissions of greenhouse gases in New
13 Mexico shall be limited as follows:

14 A. by 2030, statewide direct emissions of
15 greenhouse gases shall not exceed fifty percent of 2005 levels;
16 and

17 B. by 2050, total statewide greenhouse gas
18 emissions shall achieve at least net-zero emissions; provided
19 that total statewide direct emissions of greenhouse gases shall
20 not exceed ten percent of 2005 levels in 2050 or any subsequent
21 year.

22 **SECTION 4. [NEW MATERIAL] REPORTING--DETERMINATION OF**
23 **2005 LEVELS.--**

24 A. Annually, by April 15, beginning the year after
25 the enactment of the Zero Emissions Economy Act, each state

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entity shall provide to the department of environment and the energy, minerals and natural resources department information on:

(1) the qualitative and quantitative impacts of climate change on the state entity's programs and operations and, to the extent known, on disproportionately impacted communities;

(2) the ways in which the state entity is able to integrate climate change adaptation and mitigation practices into its programs or operations;

(3) the current and projected future direct emissions of greenhouse gases, to the extent known, from sources or sectors within the state entity's regulatory jurisdiction and the progress being made toward meeting the greenhouse gas emissions limits established in Section 3 of the Zero Emissions Economy Act; and

(4) any additional resources, statutory or regulatory authority or programs needed by the state entity to reduce direct emissions of greenhouse gases from sources or sectors within the state entity's regulatory jurisdiction to meet the greenhouse gas emissions limits established in Section 3 of the Zero Emissions Economy Act.

B. Annually, by July 1, beginning the year after the enactment of the Zero Emissions Economy Act, the department of environment and the energy, minerals and natural resources

department shall jointly publish a report on the state's progress toward meeting the greenhouse gas emissions limits established in Section 3 of the Zero Emissions Economy Act. The first report published shall determine the 2005 levels of statewide direct emissions of greenhouse gases. Additionally, each annual report shall:

(1) prioritize coordination with and consideration of environmental and economic progress for, and the avoidance of impacts to, disproportionately impacted communities;

(2) contain an inventory of all statewide greenhouse gas emissions based on best available data and information and the progress being made toward achieving the greenhouse gas emissions limits. The inventory shall include, at a minimum, total direct emissions statewide and sector- and source-specific emissions and source-specific greenhouse gas emission information required to be reported pursuant to rules adopted by the environmental improvement board;

(3) identify specific policies and regulatory strategies that are either in place or necessary to be in place to achieve the greenhouse gas emissions limits;

(4) identify additional programs needed to achieve the greenhouse gas emissions limits, including programs to reduce greenhouse gas emissions from light-, medium- and heavy-duty vehicles sold in the state and the adoption of

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1 updated building and energy codes, and the budgetary resources
2 needed to implement the programs; and

3 (5) identify opportunities to increase energy
4 efficiency investments and targets for electric utilities,
5 including opportunities for low-income households.

6 **SECTION 5. [NEW MATERIAL] POWERS AND DUTIES--DEPARTMENT**
7 **OF ENVIRONMENT--ENERGY, MINERALS AND NATURAL RESOURCES**
8 **DEPARTMENT.--**The department of environment and the energy,
9 minerals and natural resources department may seek necessary
10 resources from the legislature or other appropriate sources,
11 coordinate the efforts needed in the state and among the state
12 agencies and take any action authorized by law that is deemed
13 necessary or appropriate by the secretary of the respective
14 department for the state to meet the greenhouse gas emissions
15 limits established in Section 3 of the Zero Emissions Economy
16 Act.

17 **SECTION 6.** A new section of the Air Quality Control Act,
18 Section 74-2-5.4 NMSA 1978, is enacted to read:

19 **"74-2-5.4. [NEW MATERIAL] DUTIES AND POWERS--**
20 **ENVIRONMENTAL IMPROVEMENT BOARD--LOCAL BOARD--GREENHOUSE GAS**
21 **EMISSIONS.--**

22 A. For the purposes of this section:

23 (1) "direct emissions" means greenhouse gas
24 emissions from a source;

25 (2) "disproportionately impacted communities"

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means disadvantaged communities or communities or populations of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the communities or populations;

(3) "greenhouse gas" means gaseous compounds that absorb infrared radiation emitted from the earth's surface and trap heat in the earth's atmosphere, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride and sulfur hexafluoride, but not including water vapor;

(4) "net-zero emissions" means allowable direct emissions of greenhouse gases that are fully offset; and

(5) "offset" means a quantifiable, enforceable, additional, permanent and verifiable greenhouse gases reduction or sequestration by biological, chemical or geological means from a source that is not otherwise subject to mandatory greenhouse gas emission reduction requirements of the same amount, which reduction or sequestration is measured in terms of metric tons of carbon dioxide equivalent.

B. No later than June 30, 2025, the department shall petition the environmental improvement board to promulgate rules to reduce greenhouse gas emissions from sources subject to the Air Quality Control Act.

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C. Notwithstanding the provisions of Section 74-2-5
NMSA 1978, the environmental improvement board shall have
exclusive authority under the Air Quality Control Act to adopt
rules to reduce greenhouse gas emissions for purposes of
meeting statewide climate goals and emissions limits. The
rules shall apply to sources statewide, including sources
within the boundaries of a local authority. A local board may
adopt greenhouse gas emissions reduction rules in addition to
the environmental improvement board rules; provided that rules
adopted by the local board shall be at least as stringent as
the rules adopted by the environmental improvement board and
shall not conflict with rules adopted by the environmental
improvement board.

D. The environmental improvement board shall adopt rules:

(1) determining the proportionate share of greenhouse gas emission reductions from sources within the board's jurisdiction to achieve:

(a) by 2030, statewide direct emissions of greenhouse gases that do not exceed fifty percent of 2005 levels, as determined by the department; and

(b) by 2050, total statewide greenhouse gas emissions that are at least net-zero emissions; provided that total statewide direct emissions of greenhouse gases shall not exceed ten percent of 2005 levels in 2050 or any subsequent

1 year, as determined by the department; and

2 (2) to achieve the limits established pursuant
3 to Paragraph (1) of this subsection, establishing:

4 (a) greenhouse gas emissions reporting
5 and disclosure requirements;

6 (b) greenhouse gas emissions limits and
7 reduction requirements;

8 (c) protocols for the review and
9 approval by the department of greenhouse gas emission offset
10 credits, including preferences for offsets based on their
11 geographic location and the impact of the offsets on
12 disproportionately impacted communities or environmental
13 justice communities. The credits shall represent a greenhouse
14 gas emission reduction, avoidance or sequestration that is
15 real, additional, quantifiable, permanent, verifiable and
16 enforceable;

17 (d) protocols for the transfer, sale and
18 trading of greenhouse gas emission offset credits;

19 (e) requirements for sources or sectors
20 not meeting greenhouse gas emission reduction requirements to
21 obtain greenhouse gas emission offset credits;

22 (f) reasonable fees to be paid by
23 sources. The fees may be based on total direct emissions from
24 a source, the number of offset credits a source uses to meet
25 the applicable greenhouse emission reduction requirements or

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the sale or transfer of offset credits by a source, or a combination thereof. The fees shall cover the reasonable costs of the department to administer and enforce the greenhouse gas emissions rules promulgated by the environmental improvement board and shall be deposited in the state climate fund; and

(g) any other requirements the board deems necessary to achieve the limits established pursuant to Paragraph (1) of this subsection."

SECTION 7. A new section of the Air Quality Control Act is enacted to read:

"[NEW MATERIAL] STATE CLIMATE FUND--CREATED.--The "state climate fund" is created in the state treasury and shall be administered by the department. The fund consists of appropriations, gifts, grants, donations, income from investment of the fund and fees collected by the department pursuant to rules established by the environmental improvement board pursuant to Section 74-2-5.4 NMSA 1978. Money in the fund is appropriated to the department for the purpose of administering and enforcing the greenhouse gas emissions rules promulgated by the environmental improvement board pursuant to the Air Quality Control Act. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or the secretary's designee. Any unexpended or unencumbered balance remaining in the fund at the end of any

fiscal year shall not revert to the general fund."

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