AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE CLEAN FUEL STANDARD ACT; PROVIDING FOR THE ESTABLISHMENT OF A CLEAN FUEL STANDARD FOR TRANSPORTATION FUELS; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO PROMULGATE RULES TO IMPLEMENT THE CLEAN FUEL STANDARD ACT; IMPLEMENTING THE ASSESSMENT OF AN ANNUAL REGISTRATION FEE; CREATING THE CLEAN FUEL STANDARD 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 4 of this act may be cited as the "Clean Fuel Standard Act."

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Clean Fuel Standard Act:

A. "board" means the environmental improvement

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board;

B. "carbon intensity" means the quantity of fuel lifecycle emissions per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule;

C. "clean fuel standard" means a standard applicable to transportation fuels that reduces greenhouse gas emissions, on average, per unit of fuel energy;

D. "credit" means a unit of measure assigned to a person who generates greenhouse gas emission reductions that is used to comply with the clean fuel standard, such that one credit is equal to one metric ton of carbon dioxide equivalent;

E. "deficit" means a unit of measure assigned to the provider of a transportation fuel that has a carbon intensity greater than the applicable standard, such that one deficit is equal to one metric ton of carbon dioxide equivalent;

F. "department" means the department of environment;

G. "fuel lifecycle emissions" means the aggregate quantity of direct and indirect greenhouse gas emissions across the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from extraction or feedstock generation through the distribution, delivery and use of the finished fuel by the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for .220457.2
their relative global warming potential;

H. "fuel pathway" means a detailed description of all stages of production and uses for a transportation fuel, including feedstock generation or extraction, production, distribution and combustion and use of the fuel by the consumer that is used to calculate the fuel lifecycle emissions of a transportation fuel;

I. "greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride;

J. "motor vehicle" means "motor vehicle" as defined in the Motor Vehicle Code;

K. "provider" means a person that produces in New Mexico or imports into New Mexico transportation fuel; and

L. "transportation fuel" means electricity or a liquid or gaseous fuel that is blended, sold, supplied, offered for sale or used for the propulsion of a motor vehicle, or that is intended for use in a motor vehicle, in New Mexico and that meets applicable standards, specifications and testing requirements for motor vehicle fuel quality.

SECTION 3. [NEW MATERIAL] CLEAN FUEL STANDARD--ESTABLISHED--RULEMAKING.--

A. The board shall adopt rules to implement the Clean Fuel Standard Act.

B. The Clean Fuel Standard Act shall apply to
providers.

C. In adopting rules, the board shall take into consideration equivalent programs adopted by other jurisdictions and may coordinate with other jurisdiction to promote regional reductions in greenhouse gas emissions.

D. No later than twenty-four months after the effective date of the Clean Fuel Standard Act, the department shall petition the board to promulgate rules to implement the Clean Fuel Standard Act. The rules shall:

(1) establish the clean fuel standard based on a schedule for annually decreasing the carbon intensity of transportation fuels used in New Mexico. The schedule shall reduce the average amount of greenhouse gas emissions per unit of fuel energy by a minimum of ten percent below 2018 levels by 2030 and by a minimum of twenty-eight percent below 2018 levels by 2040. For years after 2040, the board shall determine additional reductions and the time frames for achieving the reductions;

(2) establish a process to determine carbon intensity values for transportation fuels;

(3) require the use of nationally or regionally recognized models or protocols for determining fuel lifecycle emissions and indirect land use changes in establishing the carbon intensity value for transportation fuels;
(4) establish a process for providers to comply with the Clean Fuel Standard Act by obtaining and retiring credits;

(5) establish a mechanism for a person to generate credits, including persons involved in agricultural, aviation, chemical, carbon sequestration, dairy, direct air capture, energy, film, forestry, manufacturing, methane capture and use, mining, oil and gas, transportation, waste management or wastewater treatment sectors. Greenhouse gas emission reductions eligible for the generation of credits pursuant to this paragraph shall be quantifiable, verifiable, permanent and enforceable;

(6) require the annual registration of providers and any person generating credits;

(7) require the assessment of annual registration fees for providers and any person generating credits sufficient to cover the reasonable costs of the department's administration and enforcement of the Clean Fuel Standard Act and implementation of rules. Fees collected pursuant to this paragraph shall be deposited in the clean fuel standard fund;

(8) require providers to demonstrate compliance with the clean fuel standard by balancing credits and deficits on an annual basis and submitting fuel pathway applications, fuel transactions and carbon intensity data to
(9) establish a fair market for credit transactions that is administered by the department or a third party. The board shall adopt rules for market management, including transaction fees, a credit price cap or other mechanisms that enable credits to be traded or to be banked for future compliance periods and procedures for verifying the validity of credits and deficits generated under the Clean Fuel Standard Act;

(10) require third-party certifications of fuel pathway applications and third-party verifications of fuel transactions and carbon intensity data on an annual basis, at the expense of the provider or any person generating credits;

(11) establish requirements and an accreditation process for third-party verification, including acceptance of verification entities that are accredited by another state that adopts a low-carbon fuel standard and establishes a third-party verification program;

(12) prioritize mechanisms for credit generation that benefit disproportionately impacted, environmental justice and rural communities and reduce cumulative impacts; and

(13) require electric utilities that generate credits from electricity used as transportation fuel to use at least fifty percent of the revenues generated from the credits.
for transportation electrification projects, rebates for
electric vehicle purchases or the provision of direct benefits
for current electric vehicle customers; provided that of the
fifty percent, at least thirty percent in year one, forty
percent in year two and fifty percent in subsequent years shall
be used to support transportation electrification that
primarily benefits disproportionately impacted, environmental
justice or rural communities.

E. The department is responsible for the
administration of the clean fuel standard and credits,
including implementation and enforcement of the rules adopted
by the board pursuant to the Clean Fuel Standard Act.

F. As part of the rulemaking required pursuant to
this section, the department, in consultation with the New
Mexico department of agriculture, shall develop an emergency
deferral process for the department, in consultation with
stakeholders, to temporarily suspend the implementation of a
clean fuel standard to address market conditions. The rules
shall require the department to consider a provider's request
for emergency deferral.

SECTION 4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--
CREATED.--The "clean fuel standard fund" is created in the
state treasury. The fund consists of fees collected from the
regulation of transportation fuels pursuant to the Clean Fuel
Standard Act. Money in the fund is appropriated to the
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department and shall be administered by the department for
staffing and resources needed for administration and
enforcement of rules pertaining to transportation fuels.
Disbursements from the fund shall be by warrant drawn by the
secretary of finance and administration pursuant to vouchers
signed by the secretary of environment or the secretary of
environment's designee. Any unexpended or unencumbered balance
in the clean fuel standard fund remaining at the end of any
fiscal year shall not revert to the general fund.

SECTION 5. Section 74-1-8 NMSA 1978 (being Laws 1971,
Chapter 277, Section 11, as amended) is amended to read:

"74-1-8. BOARD--DUTIES.--

A. The board is responsible for environmental
management and consumer protection. In that respect, the board
shall promulgate rules and standards in the following areas:

(1) food protection;

(2) water supply, including a capacity
development program to assist water systems in acquiring and
maintaining technical, managerial and financial capacity in
accordance with Section 1420 of the federal Safe Drinking Water
Act of 1974 and rules authorizing imposition of administrative
penalties for enforcement;

(3) liquid waste, including exclusive
authority to establish on-site liquid waste system fees that
are no more than the average charged by the contiguous states
to New Mexico for similar permits and services and to implement
and administer an inspection and permitting program for on-site
liquid waste systems;

(4) air quality management as provided in the
Air Quality Control Act;

(5) radiation control and establishment of
license and registration and other related fees not to exceed
fees charged by the United States nuclear regulatory commission
for similar licenses as provided in the Radiation Protection
Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided
in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and
public baths;

(11) plumbing, drainage, ventilation and
sanitation of public buildings in the interest of public
health;

(12) medical radiation, health and safety
certification and standards for radiologic technologists as
provided in the Medical Imaging and Radiation Therapy Health
and Safety Act;

(13) hazardous wastes and underground storage
tanks as provided in the Hazardous Waste Act; [and]

(14) solid waste as provided in the Solid Waste Act; and

(15) transportation fuels as provided in the Clean Fuel Standard Act.

B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats.

C. Administrative penalties collected pursuant to Paragraph (2) of Subsection A of this section shall be deposited in the water conservation fund.

D. On-site liquid waste system fees shall be deposited in the environmental health fund.

E. Radiation license and registration and other related fees shall be deposited in the radiation protection fund."

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