

SENATE BILL 11

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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.

.218335.5GLGAIC March 3, 2021 (8:50am)

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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 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;

STBTC→~~D. "credit" means a unit of measure used for determining compliance with the clean fuel standard such that one credit is equal to one metric ton of carbon dioxide equivalent;~~←STBTC

STBTC→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

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intensity greater than the applicable standard, such that one deficit is equal to one metric ton of carbon dioxide equivalent;←STBTC

STBTC→E.←STBTC STBTC→F.←STBTC "department" means the department of environment;

~~STBTC→F. "fuel lifecycle" means the aggregate of greenhouse gas emissions, including direct emissions and significant indirect emissions, such as significant emissions from indirect land use changes as determined by the board, produced in all stages of fuel and feedstock production, distribution and delivery and use of the finished fuel product by the consumer;~~←STBTC

STBTC→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 their relative global warming potential;←STBTC

STBTC→G.←STBTC STBTC→H.←STBTC "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 STBTC→and use←STBTC of the fuel by the consumer that is used

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to calculate the fuel lifecycle STBTC→emissions←STBTC of a transportation fuel;

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

STBTC→I.←STBTC STBTC→J.←STBTC "motor vehicle" means "motor vehicle" as defined in the Motor Vehicle Code;

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

STBTC→K.←STBTC STBTC→L.←STBTC "transportation fuel" means electricity or a liquid or gaseous fuel that is blended, sold, supplied, offered for sale or used STBTC→only←STBTC 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

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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 STBTC→twenty←STBTC STBTC→twenty-eight←STBTC percent below 2018 levels by 2040 STBTC→, with further reductions thereafter to be implemented based upon advances in technology as determined by the board;←STBTC STBTC→. For years after 2040, the board shall determine additional reductions and the time frames for achieving the reductions;←STBTC

(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 STBTC→emissions←STBTC and indirect land use changes

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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, STBTC→carbon sequestration,←STBTC dairy, STBTC→direct air capture,←STBTC energy, film, forestry, manufacturing, STBTC→methane capture and use,←STBTC mining, oil and gas, STBTC→transportation,←STBTC waste management or wastewater treatment sectors STBTC→. Greenhouse gas emission reductions eligible for the generation of credits pursuant to this paragraph shall be quantifiable, verifiable, permanent and enforceable;←STBTC ;

(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

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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 the department;

(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; STBTC→and←STBTC

(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 STBTC→;

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

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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←STBTC .

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.

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 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

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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

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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

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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."

SCONC→SECTION 6. APPROPRIATION.--Three million two hundred thousand dollars (\$3,200,000) is appropriated from the general fund to the department of environment for expenditure in fiscal years 2022 and 2023 for the department of environment to draft rules for the environmental improvement board to adopt pursuant to the Clean Fuel Standard Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2023 shall revert to the general fund.←SCONC