

HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 6

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

AN ACT

RELATING TO CLIMATE; ENACTING THE CLEAN FUTURE ACT;
ESTABLISHING GREENHOUSE GAS EMISSIONS LIMITS; REQUIRING
REPORTING; PROVIDING POWERS AND DUTIES; ENACTING A NEW SECTION
OF THE AIR QUALITY CONTROL ACT; DIRECTING THE ENVIRONMENTAL
IMPROVEMENT BOARD TO ADOPT RULES FOR A REGULATORY FRAMEWORK TO
REDUCE GREENHOUSE GAS EMISSIONS FROM SOURCES SUBJECT TO ITS
JURISDICTION; DIRECTING THE ASSESSMENT OF FEES.

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 "Clean Future Act".

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

A. "carbon dioxide equivalent" means the metric
tons of a greenhouse gas that have the same global warming

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1 potential based on their relative radiative forcing effect over
2 a specified period of time as one metric ton of carbon dioxide
3 in the atmosphere;

4 B. "direct emissions" means greenhouse gas
5 emissions from all emitting sectors;

6 C. "direct emissions reduction" means a
7 quantifiable, permanent, verifiable and enforceable reduction
8 of direct emissions, including capture or sequestration by
9 technological or geological means, reductions achieved through
10 early actions in excess of requirements for a given year and
11 reductions in excess of requirements applicable to a source;

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

19 E. "emitting sector" means any sector or source
20 that contributes to New Mexico's total emissions and is owned
21 or operated, in whole or in part, by any person and includes
22 electricity, both imported and produced in-state; heating,
23 transportation and other fuels combusted in New Mexico;
24 buildings, structures and distribution systems; residential,
25 commercial, institutional and industrial waste management;

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1 agricultural and silvicultural practices; and extractive,
2 industrial or other manufacturing processes;

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

9 G. "net-zero emissions" means direct emissions of
10 greenhouse gases are eliminated or fully offset;

11 H. "offset" means an additional, quantifiable,
12 permanent, verifiable and enforceable greenhouse gases
13 reduction, removal or sequestration by biological,
14 technological, chemical or geological means, including by
15 direct air capture by technological or biological means, from a
16 source or facility that is not otherwise subject to mandatory
17 greenhouse gas emissions limits or reduction requirements and
18 which reduction, removal or sequestration is measured in terms
19 of metric tons of carbon dioxide equivalent; and

20 I. "state entity" means a cabinet department of the
21 executive branch of state government, the regulation and
22 licensing department, the state land office, the public
23 regulation commission, the New Mexico department of
24 agriculture, the board of regents of the university of New
25 Mexico and the board of regents of New Mexico state university.

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1 SECTION 3. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS

2 LIMITS--ESTABLISHED.--Emissions of greenhouse gases in New
3 Mexico shall be limited as follows:

4 A. by 2030, statewide direct emissions of
5 greenhouse gases shall be at least fifty percent less than 2005
6 levels, as determined by an assessment of 2005 emissions from
7 all sectors, which may be met by using direct emissions
8 reductions; and

9 B. by 2050, statewide direct emissions of
10 greenhouse gases shall be at least ninety percent less than
11 2005 levels, as determined by an assessment of 2005 emissions
12 from all sectors, which may be met by using direct emissions
13 reductions, and any remaining emissions shall be at least
14 matched with offsets to achieve at least net-zero emissions in
15 2050 and any subsequent year.

16 SECTION 4. [NEW MATERIAL] REPORTING--DETERMINATION OF
17 2005 LEVELS.--

18 A. Annually, by April 15, beginning the year after
19 the enactment of the Clean Future Act, each state entity shall
20 provide to the department of environment and the energy,
21 minerals and natural resources department information on:

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

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

4 (3) the current and projected future direct
5 emissions of greenhouse gases, to the extent known, from
6 sources or sectors within the state entity's regulatory
7 jurisdiction and the progress being made toward meeting the
8 greenhouse gas emissions limits established in Section 3 of the
9 Clean Future Act; and

10 (4) any additional resources, statutory or
11 regulatory authority or programs that could facilitate efforts
12 by the state entity to reduce direct emissions of greenhouse
13 gases from sources or sectors within the state entity's
14 regulatory jurisdiction to meet the greenhouse gas emissions
15 limits established in Section 3 of the Clean Future Act.

16 B. Annually, by July 1, beginning the year after
17 the enactment of the Clean Future Act, the department of
18 environment and the energy, minerals and natural resources
19 department shall jointly publish a report on the state's
20 progress toward meeting the greenhouse gas emissions limits
21 established in Section 3 of the Clean Future Act. The first
22 report published shall determine the 2005 levels of statewide
23 direct emissions of greenhouse gases for purposes of
24 determining compliance with the limits established in Section 3
25 of the Clean Future Act. Additionally, each annual report

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1 shall:

2 (1) prioritize coordination with and
3 consideration of environmental and economic progress for, and
4 the avoidance or perpetuation of impacts to, disproportionately
5 impacted communities and identify any recommendations made by
6 the sustainable economy advisory council;

7 (2) identify issues and opportunities raised
8 through tribal consultation;

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

17 (4) identify specific policies and regulatory
18 strategies that are either in place or necessary to be in place
19 to achieve the greenhouse gas emissions limits established in
20 Section 3 of the Clean Future Act;

21 (5) identify opportunities to incentivize
22 early, additional voluntary direct emissions reductions;

23 (6) identify additional programs that could
24 facilitate achievement of the greenhouse gas emissions limits,
25 including programs to reduce greenhouse gas emissions from

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1 light-, medium- and heavy-duty vehicles sold in the state and
2 the adoption of updated building and energy codes, and the
3 budgetary resources needed to implement the programs; and

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

7 SECTION 5. [NEW MATERIAL] POWERS AND DUTIES--DEPARTMENT
8 OF ENVIRONMENT--ENERGY, MINERALS AND NATURAL RESOURCES
9 DEPARTMENT.--The department of environment and the energy,
10 minerals and natural resources department may seek resources
11 from the legislature or other appropriate sources, coordinate
12 the efforts needed in the state and among the state agencies
13 and take any action authorized by law that is deemed necessary
14 or appropriate by the secretary of the respective department
15 for the state to meet the greenhouse gas emissions limits
16 established in Section 3 of the Clean Future 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) "carbon dioxide equivalent" means the
24 metric tons of a greenhouse gas that have the same global
25 warming potential based on their relative radiative forcing

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1 effect over a specified period of time as one metric ton of
2 carbon dioxide in the atmosphere;

3 (2) "direct emissions" means greenhouse gas
4 emissions from a source;

5 (3) "direct emissions reduction" means a
6 quantifiable, permanent, verifiable and enforceable reduction
7 of direct emissions, including capture or sequestration by
8 technological or geological means, reductions achieved through
9 early actions in excess of requirements for a given year and
10 reductions in excess of requirements applicable to a source, as
11 approved by the department;

12 (4) "disproportionately impacted communities"
13 means disadvantaged communities or communities or populations
14 of people for which multiple burdens, including environmental
15 and socioeconomic stressors, inequity, poverty, high
16 unemployment, pollution or discrimination, may act to
17 persistently and negatively affect the health, well-being and
18 environment of the communities or populations;

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

25 (6) "net-zero emissions" means direct

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1 emissions of greenhouse gases are eliminated or fully offset;

2 (7) "offset" means an additional,
3 quantifiable, permanent, verifiable and enforceable greenhouse
4 gases reduction, removal or sequestration by biological,
5 chemical or geological means, including by direct air capture
6 by technological or biological means, from a source that is not
7 otherwise subject to mandatory greenhouse gas emissions limits
8 or reduction requirements, and which reduction, removal or
9 sequestration is measured in terms of metric tons of carbon
10 dioxide equivalent; and

11 (8) "source" means a structure, building,
12 equipment, facility, installation or operation that emits or
13 may emit an air contaminant and any person or entity that
14 imports electricity for retail sale in the state or any
15 distributor of fuels that produce any emissions and are used in
16 the state.

17 B. No later than January 1, 2024, the department
18 shall petition the environmental improvement board to
19 promulgate rules to reduce greenhouse gas emissions from
20 sources subject to the Air Quality Control Act. In preparing
21 the petition, the department shall hold meetings in at least
22 three distinct regions of the state where disproportionately
23 impacted communities are located, consider the input provided
24 by those communities at the meetings in developing the petition
25 and solicit input from the sustainable economy advisory council

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1 and through tribal consultation.

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

15 D. The environmental improvement board shall:

16 (1) adopt rules that establish the
17 proportionate share of allowable greenhouse gas emissions from
18 sources within the board's jurisdiction necessary to achieve:

19 (a) by 2030, statewide direct emissions
20 of greenhouse gases that are at least fifty percent less than
21 2005 levels, as determined by an assessment of 2005 emissions
22 from all sectors, which may be met by using direct emissions
23 reductions, as determined by the department; and

24 (b) by 2050, statewide direct emissions
25 of greenhouse gases that are at least ninety percent less than

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1 2005 levels, as determined by an assessment of 2005 emissions
2 from all sectors, which may be met by using direct emissions
3 reductions, and any remaining emissions shall be at least
4 matched with offsets to achieve at least net-zero emissions in
5 2050 and any subsequent year, as determined by the department;

6 (2) consider requirements and reductions
7 achieved or required pursuant to other applicable laws, rules
8 or federal regulations in establishing the proportionate share
9 of allowable greenhouse gas emissions from sources within the
10 board's jurisdiction to achieve the limits of Paragraph (1) of
11 this subsection; and

12 (3) adopt rules to achieve the limits
13 established pursuant to Paragraph (1) of this subsection,
14 including:

15 (a) greenhouse gas emissions reporting
16 and disclosure requirements;

17 (b) greenhouse gas emissions permitting
18 requirements, standards and limits. In setting the standards,
19 limits and requirements, the board shall consider: 1)
20 prioritization and benefits of emissions reductions in and
21 avoidance of increased impacts on disproportionately impacted
22 communities; 2) results of tribal consultation, including on
23 cultural considerations related to geologic sequestration; 3)
24 impacts of any voluntary actions taken by sources before the
25 initiation of the rulemaking process; 4) technical availability

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1 and feasibility; and 5) cost-effectiveness;

2 (c) protocols for the review and
3 approval by the department of offsets. The protocols for
4 verifying the reduction, removal or sequestration by an offset
5 shall consider: 1) the requirements of any relevant regional
6 offset marketplace; 2) the geographic location of any offsets;
7 3) the greenhouse gas being reduced, removed or sequestered and
8 the nature of the reduction, removal or sequestration activity
9 and the impact of the offset; and 4) the impact of offsets on
10 disproportionately impacted communities or environmental
11 justice communities;

12 (d) protocols for the development, use
13 and any transfer, sale and trading of offsets or credits, and
14 any market mechanisms or potential participation in an
15 applicable regional market for the same;

16 (e) requirements to ensure all direct
17 emissions reductions by sources subject to the limits are
18 counted toward achievement of the statewide emissions limits
19 and that sources have incentives to reduce emissions early and
20 in excess of any limit;

21 (f) reasonable fees to be paid by
22 sources. The fees may be based on total direct emissions from
23 a source and shall cover the reasonable costs of the department
24 to administer and enforce the greenhouse gas emissions rules
25 promulgated by the environmental improvement board. The fees

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1 collected pursuant to this subparagraph shall be remitted to
2 the state treasurer and deposited in the general fund; and

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

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