

PROPOSED
HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 227

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ENACTING THE HYDROGEN HUB DEVELOPMENT ACT; PROVIDING FOR THE
DESIGNATION OF HYDROGEN HUBS; ALLOWING PUBLIC PARTNERS TO ENTER
INTO PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS TO FACILITATE
DEVELOPMENT OF HYDROGEN HUB PROJECTS; CREATING THE HYDROGEN HUB
DEVELOPMENT BOARD AND SPECIFYING POWERS; ESTABLISHING CRITERIA
FOR APPROVAL OF HYDROGEN HUB PROJECTS; CREATING THE HYDROGEN
HUB PROJECT FUND; AUTHORIZING GRANTS, LOANS AND REVENUE BONDS;
SPECIFYING POWERS AND DUTIES OF THE NEW MEXICO FINANCE
AUTHORITY; REQUIRING REPORTS; CREATING THE HYDROGEN PRODUCTION
AND ENERGY GENERATION INCOME TAX CREDIT, THE HYDROGEN
PRODUCTION AND ENERGY GENERATION CORPORATE INCOME TAX CREDIT
AND GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR
HYDROGEN-RELATED SALES AND USE; SPECIFYING ADDITIONAL DUTIES OF
THE DEPARTMENT OF ENVIRONMENT; ADDING AN EXEMPTION TO THE

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1 PROCUREMENT CODE; AMENDING DEFINITIONS IN THE RURAL ELECTRIC
2 COOPERATIVE ACT AND THE RENEWABLE ENERGY ACT; MAKING AN
3 APPROPRIATION; DECLARING AN EMERGENCY.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
7 through 14 of this act may be cited as the "Hydrogen Hub
8 Development Act".

9 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
10 Hydrogen Hub Development Act:

11 A. "apprenticeship program" means an apprenticeship
12 program registered pursuant to the Apprenticeship Assistance
13 Act;

14 B. "authority" means the New Mexico finance
15 authority;

16 C. "board" means the hydrogen hub development
17 board;

18 D. "carbon intensity" means the quantity of carbon
19 dioxide equivalent emitted as determined through a life cycle
20 analysis as expressed in kilograms of carbon dioxide equivalent
21 per kilogram of hydrogen produced;

22 E. "clean hydrogen" means whichever of the
23 following results in the lower carbon intensity:

24 (1) hydrogen produced with a carbon intensity
25 equal to or less than two kilograms of carbon dioxide

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1 equivalent per kilogram of hydrogen produced; or

2 (2) hydrogen meeting the standards for clean
3 hydrogen developed pursuant to Section 822 of the federal
4 Energy Policy Act of 2005, as that section may be amended or
5 renumbered;

6 F. "clean hydrogen electric generation facility"
7 means "clean hydrogen electric generation facility" as defined
8 in the Renewable Energy Act;

9 G. "decarbonization" means the elimination of
10 carbon or other greenhouse gas emissions;

11 H. "greenhouse gas emissions" means the release
12 into the atmosphere of any gas, including carbon dioxide and
13 methane but excluding water vapor, that contributes to climate
14 change through the trapping of heat in the atmosphere;

15 I. "GREET model" means the greenhouse gases,
16 regulated emissions and energy use in technologies model
17 developed by Argonne national laboratory or a successor model;

18 J. "hard-to-decarbonize industry" means an industry
19 for which there are not yet easily adopted, cost-effective
20 alternative technologies to eliminate greenhouse gas emissions;

21 K. "hydrogen hub" means a distinct geographic area
22 approved by the board pursuant to Subsection C of Section 6 of
23 the Hydrogen Hub Development Act within which proposed hydrogen
24 hub projects may be approved for grants or loans;

25 L. "hydrogen hub project" means a project creating

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1 or modifying infrastructure relating to the generation of power
2 and the production, storage, transport and consumption of
3 hydrogen, including the conversion of methane, natural gas or
4 water and the sequestration of carbon dioxide;

5 M. "life cycle analysis" means, for hydrogen
6 produced from methane, including feedstock extraction,
7 agricultural waste, biomass or municipal solid waste, or from
8 any other source, including water or wastewater, the quantity
9 of greenhouse gas emissions through the point of hydrogen
10 production, including all stages of production and
11 distribution, from feedstock generation through the delivery
12 and use of the finished fuel or other product for hydrogen
13 production, as determined under the most recent GREET model and
14 certified by an independent third-party entity that is
15 qualified to verify life cycle analyses, as determined by the
16 department of environment;

17 N. "permanent sequestration of carbon dioxide"
18 means carbon dioxide injected using a well permitted pursuant
19 to Code of Federal Regulations, Title 40, chapter 2, Subchapter
20 D, Part 146, Subpart H, or an equivalent or more stringent
21 state program, and that complies with a monitoring and
22 verification plan approved pursuant to Code of Federal
23 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
24 RR, Section 98.440, Paragraphs (a) and (b), excluding any well
25 or group of wells where a carbon dioxide stream is being

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1 injected in subsurface geologic formations to enhance the
2 recovery of oil or natural gas;

3 O. "private partner" means an individual, a foreign
4 or domestic corporation, a general partnership, a limited
5 liability company, a limited partnership, a joint venture, a
6 business trust, a public benefit corporation, a nonprofit
7 entity or other private business entity or combination thereof;

8 P. "public partner" means the state and its
9 branches, agencies, departments, boards, instrumentalities or
10 institutions and all political subdivisions of the state and
11 their agencies, instrumentalities and institutions, including a
12 department, an agency, an institution of higher education, a
13 board or a commission;

14 Q. "public-private partnership" means an
15 arrangement between one or more public partners and one or more
16 private partners for the development of a hydrogen hub project
17 pursuant to the Hydrogen Hub Development Act;

18 R. "public-private partnership agreement" means a
19 contract between one or more public partners and one or more
20 private partners in connection with the development of a
21 hydrogen hub project;

22 S. "responsibly sourced gas" means gas used or
23 purchased to produce hydrogen that satisfies the more stringent
24 of either:

25 (1) the standard for methane gas allowed to be

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1 used in hydrogen hub projects as promulgated by the federal
2 government pursuant to Title 8 of the federal Energy Policy Act
3 of 2005; or

4 (2) certification by a qualified independent
5 organization with nationally recognized expertise to provide
6 such certification, so long as such certification ensures using
7 a verifiable audit trail, based in part on field measurements,
8 that the production and transport of such gas achieves at least
9 ninety-nine percent gas capture and meets applicable state or
10 federal air quality emissions control requirements, and the
11 organization has been approved by the energy, minerals and
12 natural resources department;

13 T. "revenue" means all revenue, income, earnings,
14 user fees, lease payments or other service payments that
15 support the development of a hydrogen hub project, including
16 money received as a grant or otherwise from the federal
17 government, a public partner or any agency or instrumentality
18 of the federal government; and

19 U. "user fees" means rates, fees or other charges
20 imposed by the public partner or the private partner for use of
21 all or part of a hydrogen hub project.

22 SECTION 3. [NEW MATERIAL] HYDROGEN HUBS--DESIGNATION--
23 CRITERIA.--

24 A. A private partner or a public partner may
25 propose a specific geographic area for designation as a

1 hydrogen hub pursuant to Subsection C of Section 6 of the
2 Hydrogen Hub Development Act.

3 B. A proposed hydrogen hub shall meet as many of
4 the following criteria as feasible at the time of designation:

5 (1) reasonable access to the fuel source
6 needed to support a proposed hydrogen hub project using:

7 (a) renewable energy sources; or

8 (b) a natural gas pipeline or natural
9 gas or methane gas generator within twenty-five miles of the
10 proposed hydrogen hub and with a volume of responsibly sourced
11 gas sufficient to supply one hundred fifty percent of the
12 volume necessary to support a proposed hydrogen hub project;

13 (2) access within a four-hour travel period to
14 a designated federal interstate highway or other four-lane
15 vehicular highway;

16 (3) access within a four-hour travel period to
17 a railroad line providing access to major markets on the west
18 coast, gulf coast and east coast;

19 (4) reasonable access to a regional power grid
20 suitable for the export of power generated by a hydrogen hub
21 project;

22 (5) suitability for the use of renewable
23 energy sources such as solar energy and wind power, including
24 access to open land, sufficient to produce at least fifty
25 percent of the power needed at the proposed hydrogen hub;

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1 (6) geologic suitability and capacity in
2 proposed sequestration strata for the permanent sequestration
3 of carbon dioxide produced at the proposed hydrogen hub,
4 including demonstration that such sequestration will not
5 interfere with other approved operations in the same or other
6 geographic strata;

7 (7) existing infrastructure suitable for
8 redevelopment through a hydrogen hub project;

9 (8) existing or proposed infrastructure for
10 the use of hydrogen generated through a hydrogen hub project;

11 (9) availability of a qualified labor pool,
12 including reemployment of displaced energy transition
13 personnel;

14 (10) feasibility of the establishment of a
15 facility to facilitate the transfer of technology necessary for
16 the implementation of hydrogen hub projects;

17 (11) beneficial impact on economically
18 disadvantaged and distressed communities, including those
19 impacted by the closure of coal and other fossil fuel
20 industries;

21 (12) feasibility of suitable evacuation plans
22 for hydrogen hub projects that generate power;

23 (13) availability of a public partner capable
24 of coordinating development activities within the proposed
25 hydrogen hub;

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1 (14) potential for participation in a regional
2 or multistate effort to develop hydrogen-related industries;
3 and

4 (15) ability to use state economic development
5 incentive programs for hydrogen hub projects, including:

6 (a) improvement districts pursuant to
7 Chapter 3, Article 33 NMSA 1978;

8 (b) the Public Improvement District Act;

9 (c) the Tax Increment for Development
10 Act;

11 (d) the Industrial Revenue Bond Act;

12 (e) the Local Economic Development Act;

13 (f) the Renewable Energy Financing
14 District Act; and

15 (g) the Infrastructure Development Zone
16 Act.

17 **SECTION 4. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP**
18 **AGREEMENTS--APPROVAL REQUIREMENTS--RESTRICTIONS.--**

19 A. To provide economic and administrative
20 efficiencies in connection with the development of hydrogen hub
21 projects, a public partner is authorized to enter into public-
22 private partnership agreements.

23 B. Prior to entering into negotiations regarding
24 the use of a public-private partnership agreement as a method
25 of implementing a proposed hydrogen hub project, the public

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1 partner shall publish in a newspaper of general circulation its
2 interest in considering such an agreement, and such publication
3 shall include a description of the scope of the proposed
4 hydrogen hub project.

5 C. Prior to entering into a public-private
6 partnership agreement, a public partner shall:

7 (1) undertake a cost-benefit analysis of a
8 public-private partnership hydrogen hub project in comparison
9 with a traditional public partner-managed project;

10 (2) demonstrate the potential of the proposed
11 hydrogen hub project to reduce carbon emissions, especially in
12 hard-to-decarbonize industries;

13 (3) conduct a public hearing relating to the
14 proposed public-private partnership held in accordance with the
15 Open Meetings Act;

16 (4) demonstrate that the proposed hydrogen hub
17 project serves an important public purpose and fulfills an
18 important public need; and

19 (5) demonstrate that the proposed hydrogen hub
20 project will comply with applicable state and federal law.

21 D. A public-private partnership agreement shall:

22 (1) define the roles and responsibilities of
23 the public partners and the private partners;

24 (2) provide clawback or recapture provisions
25 that protect the public investment in the event of a default on

1 the agreement and that can be exercised by either the board or
2 the public partner;

3 (3) provide a finance plan detailing the
4 financial contributions and obligations of the public and
5 private partners;

6 (4) require a private partner to provide, or
7 cause to be provided, performance and payment bonds as required
8 pursuant to Section 13-4-18 NMSA 1978;

9 (5) require a private partner to provide
10 guarantees, letters of credit or other acceptable forms of
11 security, the amount of which may be less than one hundred
12 percent of the value of the contract involved based on the
13 determination of the public partner, or for public-private
14 partnership agreements requiring board approval, based on the
15 determination by the board;

16 (6) specify how revenue will be collected,
17 accounted for and audited;

18 (7) specify how debts incurred on behalf of
19 the public partner or private partner will be repaid;

20 (8) address how the public partners and the
21 private partners will share management and the risks of the
22 hydrogen hub project;

23 (9) provide that, in the event of an uncured
24 default, the public partner may:

25 (a) elect to take over the hydrogen hub

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1 project, including the succession of all right, title and
2 interest in the hydrogen hub project, subject to any liens on
3 revenue previously granted by the private partner; and

4 (b) terminate the public-private
5 partnership and exercise any other rights and remedies that may
6 be available, where such right to terminate may also be
7 exercised by the board if the board finds it is in the public
8 interest to do so;

9 (10) specify the term of the public-private
10 partnership agreement, which shall not exceed thirty years;

11 (11) limit a private partner from seeking
12 injunctive or other equitable relief to in any way restrict a
13 public partner from developing, constructing or maintaining a
14 hydrogen hub project, except that the public-private
15 partnership agreement may provide for reasonable compensation
16 to the private partner for the adverse effect resulting from
17 development, construction, operation and maintenance of another
18 hydrogen hub project of the public partner;

19 (12) provide for the protection of proprietary
20 information of the private partner; and

21 (13) provide provisions for termination of the
22 public-private partnership agreement, including the cessation
23 of the powers and duties of the private partner.

24 E. A public-private partnership agreement for a
25 hydrogen hub project shall not become effective until it is

1 approved by the board pursuant to Subsection D of Section 6 of
 2 the Hydrogen Hub Development Act.

3 SECTION 5. [NEW MATERIAL] HYDROGEN HUB DEVELOPMENT
 4 BOARD--CREATED--MEMBERSHIP.--

5 A. The "hydrogen hub development board" is created.
 6 The department of environment shall provide necessary
 7 administrative services to the board.

8 B. The board is composed of:

9 (1) the secretary of economic development or
 10 the secretary's designee;

11 (2) the secretary of finance and
 12 administration or the secretary's designee;

13 (3) the secretary of energy, minerals and
 14 natural resources or the secretary's designee;

15 (4) the secretary of environment or the
 16 secretary's designee;

17 (5) the secretary of taxation and revenue or
 18 the secretary's designee;

19 (6) the chief executive officer of the
 20 authority or the chief executive officer's designee; and

21 (7) five public members appointed by the New
 22 Mexico legislative council who shall have experience in
 23 architecture, the technology and analysis of reductions in
 24 greenhouse gas emissions, the development and related
 25 engineering of hydrogen hub projects, project finance, public

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1 finance or bond and finance law.

2 C. The public members appointed initially shall
3 draw lots for staggered terms in such a way that two members
4 shall serve for six years, two members shall serve for four
5 years and one member shall serve for two years. Thereafter,
6 the public members shall serve for six-year terms. A vacancy
7 in a term of a public member of the board shall be filled by
8 the New Mexico legislative council for the remainder of the
9 original term.

10 D. The members shall select a chair, who shall be a
11 public member and who shall serve a term of two years.

12 E. Members who are not public employees are
13 entitled to per diem and mileage as provided in the Per Diem
14 and Mileage Act but shall receive no other compensation,
15 perquisite or allowance.

16 F. A member of the board shall not participate in
17 or influence a decision by the board in which that member has a
18 conflict of interest, pecuniary interest or other disqualifying
19 interest respecting a public-private partnership agreement or a
20 hydrogen hub project that is considered by the board. All
21 members of the board shall certify annually and in writing
22 compliance with this subsection.

23 SECTION 6. [NEW MATERIAL] HYDROGEN HUB DEVELOPMENT
24 BOARD--POWERS--DUTIES.--The board has the following powers and
25 duties:

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1 A. meet quarterly and at such other times as deemed
2 necessary by the chair;

3 B. develop forms of applications for approval of
4 public-private partnerships;

5 C. review and approve, modify or disapprove
6 specific geographic areas to be designated as hydrogen hubs;

7 D. review and approve or disapprove proposed
8 public-private partnership agreements for a hydrogen hub
9 project;

10 E. modify or terminate existing approvals or
11 designations for failure to meet the requirements of the
12 Hydrogen Hub Development Act;

13 F. certify the need for the issuance of revenue
14 bonds and refunding bonds by the authority;

15 G. adopt and promulgate rules establishing the
16 application process and criteria for the approval of public-
17 private partnership agreements in accordance with the
18 provisions of the State Rules Act;

19 H. approve or disapprove applications for grants or
20 loans from the hydrogen hub project fund for hydrogen hub
21 projects;

22 I. consult with state agencies, including the
23 taxation and revenue department, the department of environment
24 or the energy, minerals and natural resources department, on
25 technical issues relevant to the board's consideration of an

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1 application;

2 J. request updates to any technical information,
3 including any annual certification, provided in connection with
4 an approved application or designation;

5 K. take all other action necessary to implement the
6 Hydrogen Hub Development Act, including entering into joint
7 powers agreements and retaining legal counsel and experts when
8 appropriate; and

9 L. consider a petition from any person requesting
10 the board to take any action it is authorized to take pursuant
11 to law.

12 SECTION 7. [NEW MATERIAL] HYDROGEN HUB PROJECTS--CRITERIA
13 FOR APPROVAL.--

14 A. If the proposed hydrogen hub project generates
15 hydrogen, the board shall approve a proposed public-private
16 partnership agreement only if it finds the proposed project:

17 (1) is a clean hydrogen electric generation
18 facility or will generate or use only clean hydrogen;

19 (2) provides for the permanent sequestration
20 of carbon dioxide created in the production of hydrogen by the
21 proposed hydrogen hub project, either by the creator of the
22 carbon dioxide or by a purchaser of the carbon dioxide; and

23 (3) provides certification that methane gas
24 produced or purchased, regardless of the source, for the
25 generation of hydrogen is responsibly sourced gas.

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1 B. If the proposed hydrogen hub project generates
2 hydrogen, in deciding whether to approve a proposed
3 public-private partnership agreement for a hydrogen hub
4 project, in addition to the criteria set forth in Subsection C
5 of this section, the board shall consider at least the
6 following criteria:

7 (1) whether hydrogen is a cost-effective
8 decarbonization solution for the proposed hydrogen hub project;

9 (2) the cost of alternative decarbonization
10 technologies;

11 (3) the net environmental impact of the
12 proposed hydrogen hub project, including the potential for
13 cost-effective decarbonization of electric generation,
14 industrial manufacturing and transportation and the impact on
15 fresh water reserves; and

16 (4) the opportunities for the proposed
17 hydrogen hub project to participate in a regional energy or
18 power market.

19 C. For all proposed hydrogen hub projects, in
20 deciding whether to approve a proposed public-private
21 partnership agreement for a hydrogen hub project, the board
22 shall consider at least the following criteria:

23 (1) the technological feasibility of the
24 proposed hydrogen hub project and the ability of the private
25 partners and public partners to successfully implement the

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1 proposed hydrogen hub project;

2 (2) the projected time frame for completion of
3 the proposed hydrogen hub project;

4 (3) the impact of the proposed hydrogen hub
5 project on the local employment base and on an economically
6 distressed community;

7 (4) subject to the availability of qualified
8 applicants, whether the construction of a proposed hydrogen hub
9 project shall employ apprentices from an apprenticeship program
10 during the construction phase of a project at a minimum level
11 of the following percentages of all persons employed for the
12 project:

13 (a) ten percent for projects for which
14 on-site construction commences beginning on or after January 1,
15 2023 and prior to January 1, 2024;

16 (b) seventeen and one-half percent for
17 projects for which on-site construction commences beginning on
18 or after January 1, 2024 and prior to January 1, 2025; and

19 (c) twenty-five percent for projects for
20 which on-site construction commences beginning on or after
21 January 1, 2026;

22 (5) the projected impact of the proposed
23 hydrogen hub project on the taxable revenue for the state and
24 relevant municipalities and counties;

25 (6) the financial feasibility of the proposed

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1 hydrogen hub project, including the cost of the hydrogen hub
 2 project, the projected financial income from the proposed
 3 hydrogen hub project and the public-private partnership's
 4 ability to leverage grants or loans from the state;

5 (7) the potential qualification of the
 6 proposed hydrogen hub project for state and federal grants,
 7 loans and tax incentives;

8 (8) the possibility of state investment in the
 9 proposed hydrogen hub project pursuant to Section 7-27-5.15
 10 NMSA 1978; and

11 (9) the opportunities for the proposed
 12 hydrogen hub project to participate in a regional hydrogen hub.

13 D. For the purposes of Paragraph (4) of Subsection
 14 C of this section, apprenticeship programs shall encourage
 15 diversity among participants, participation by those
 16 underrepresented in the industry associated with that
 17 apprenticeship program and participation from disadvantaged
 18 communities, as determined by the workforce solutions
 19 department. That department shall promulgate rules to ensure
 20 compliance with this subsection.

21 **SECTION 8. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY--**
 22 **DUTIES.--**The authority shall:

23 A. provide staff support to the board for the
 24 financial analysis of proposed hydrogen hub projects;

25 B. administer the hydrogen hub project fund;

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1 C. develop forms of grant and loan applications for
2 hydrogen hub projects seeking funds from the hydrogen hub
3 project fund;

4 D. make grants and loans from the hydrogen hub
5 project fund for applications that have been approved by the
6 board pursuant to Subsection H of Section 6 of the Hydrogen Hub
7 Development Act;

8 E. adopt and promulgate rules as necessary relating
9 to the issuance of bonds for hydrogen hub projects;

10 F. upon certification by the board, issue revenue
11 bonds and refunding bonds in accordance with the provisions of
12 the Hydrogen Hub Development Act;

13 G. fix, revise from time to time, charge and
14 collect fees and other charges in connection with making grants
15 and loans from the hydrogen hub project fund;

16 H. be compensated from the hydrogen hub project
17 fund for administrative and reimbursable costs in connection
18 with the authority's support of the board and administration of
19 the hydrogen hub project fund; and

20 I. take all other action necessary to implement the
21 Hydrogen Hub Development Act, including entering into joint
22 powers agreements with other agencies.

23 SECTION 9. [NEW MATERIAL] HYDROGEN HUB PROJECT FUND
24 CREATED--STUDY GRANTS--INFRASTRUCTURE LOANS.--

25 A. The "hydrogen hub project fund" is created

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1 within the authority. The fund consists of appropriations,
2 payments of principal and interest on loans made from the fund,
3 income from investment of the fund and any other money
4 distributed or otherwise allocated to the fund. Balances in
5 the fund at the end of any fiscal year shall not revert to the
6 general fund. The fund may consist of such subaccounts as the
7 authority deems necessary to carry out the purposes of the
8 fund.

9 B. Money in the hydrogen hub project fund may be
10 used to make grants of up to two hundred fifty thousand dollars
11 (\$250,000) to a public partner for the purposes of studying the
12 costs and benefits of entering into a public-private
13 partnership for a proposed hydrogen hub project. A private
14 partner shall provide funds that match or exceed the public
15 partner's monetary obligation for the cost of the study, as
16 required by the authority.

17 C. Money in the hydrogen hub project fund may be
18 used to provide grants and loans for financing a hydrogen hub
19 project through a public-private partnership agreement;
20 provided that:

21 (1) the private partner shall provide funds in
22 the form of capital, either equity or debt, that match or
23 exceed the public partner's monetary obligation for the public-
24 private partnership agreement, as provided by rule; and

25 (2) the public partner certifies to the board

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1 that the public partner has taken all action necessary to
2 approve the public-private partnership agreement and that the
3 public-private partnership agreement contains all terms and
4 conditions required by Subsection D of Section 4 of the
5 Hydrogen Hub Development Act.

6 D. Money in the hydrogen hub project fund may be
7 used pursuant to Subsections B and C of this section only for
8 grants or loans to a public partner for a hydrogen hub project.

9 E. Money in the hydrogen hub project fund may be
10 used for grants or loans to an Indian nation, tribe or pueblo
11 that has entered into a partnership with a private partner for
12 the development of a hydrogen hub project only if:

13 (1) the agreement between the Indian nation,
14 tribe or pueblo and the private partner is approved by the
15 board; and

16 (2) the grant or loan application is approved
17 by the board.

18 F. Money in the hydrogen hub project fund may be
19 used for administrative and reimbursable costs incurred by the
20 board, the department of environment and the authority, subject
21 to the legislative appropriation process.

22 SECTION 10. [NEW MATERIAL] REVENUE BONDING AUTHORITY.--

23 A. Upon certification of the board, the authority
24 may issue revenue bonds, the pledged revenues for which shall
25 be fees, charges, lease payments, installment sale payments or

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1 other revenue sources of a hydrogen hub project for any one or
2 more of the purposes authorized by the Hydrogen Hub Development
3 Act.

4 B. The authority may pledge irrevocably any or all
5 of the revenue received by the authority to the payment of the
6 interest on and principal of revenue bonds for any of the
7 purposes authorized in the Hydrogen Hub Development Act.

8 C. In addition to the pledge of revenues to the
9 payment of revenue bonds, the authority may grant a mortgage on
10 a hydrogen hub project that has been solely financed by revenue
11 bonds to the bondholders or a trustee for the benefit of the
12 holders of revenue bonds.

13 D. Revenue in excess of the annual principal and
14 interest due on revenue bonds secured by a pledged revenue may
15 be accumulated in a debt service reserve account. The
16 authority may appoint a commercial bank trust department to act
17 as paying agent or trustee of the revenue and to administer the
18 payment of principal of and interest on the revenue bonds.

19 E. Except as otherwise provided in the Hydrogen Hub
20 Development Act, revenue bonds:

21 (1) may have interest, principal value or any
22 part thereof payable at intervals or at maturity as may be
23 determined by the authority;

24 (2) may be subject to prior redemption at the
25 authority's option at a time and upon terms and conditions,

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1 with or without the payment of a premium, as determined by the
2 authority;

3 (3) may mature at any time not exceeding
4 thirty years after the date of issuance;

5 (4) may be serial in form and maturity, may
6 consist of one bond payable at one time or in installments or
7 may be in another form determined by the authority;

8 (5) shall be sold for cash at, above or below
9 par and at a price that results in a net effective interest
10 rate that does not exceed the maximum permitted by the Public
11 Securities Act and the Public Securities Short-Term Interest
12 Rate Act; and

13 (6) may be sold at public or negotiated sale.

14 F. At a regular or special meeting, the authority
15 may, upon receipt of a certification from the board, adopt a
16 resolution that:

17 (1) declares the necessity for issuing revenue
18 bonds;

19 (2) authorizes the issuance of revenue bonds
20 by an affirmative vote of a majority of all of the members of
21 the authority; and

22 (3) designates the sources of revenues to be
23 pledged to the repayment of the revenue bonds.

24 SECTION 11. [NEW MATERIAL] REFUNDING BOND AUTHORITY.--

25 A. Upon certification of the board, the authority

1 may issue refunding bonds for the purpose of refinancing,
2 paying and discharging all or any part of outstanding bonds for
3 the:

4 (1) acceleration, deceleration or other
5 modification of the payment of the outstanding bonds, including
6 any capitalization of any interest thereon in arrears or about
7 to become due for any period not exceeding two years from the
8 date of the refunding bonds;

9 (2) reduction of interest costs or effecting
10 other economies; or

11 (3) modification or elimination of restrictive
12 contractual limitations pertaining to the issuance of
13 additional bonds or concerning the outstanding bonds or
14 hydrogen hub project relating to the outstanding bonds.

15 B. The authority shall pledge irrevocably for the
16 payment of interest, principal and premium, if any, on
17 refunding bonds the appropriate pledged revenues, which may be
18 pledged to an original issue of bonds.

19 C. In addition to the pledge of revenue to the
20 payment of refunding bonds, the authority may grant a mortgage
21 on a hydrogen hub project that has been solely financed by
22 revenue bonds to the bondholders or a trustee for the benefit
23 of the holders of the bonds.

24 D. Refunding bonds may be issued separately or in
25 combination in one series or more.

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1 E. Refunding bonds shall be authorized by
2 resolution. Bonds that are refunded shall be paid at maturity
3 or on any permitted prior redemption date in the amounts, at
4 the time and places and, if called prior to maturity, in
5 accordance with any applicable notice provisions, all as
6 provided in the proceedings authorizing the issuance of the
7 refunded bonds or otherwise appertaining thereto, except for
8 any such bond that is voluntarily surrendered for exchange or
9 payment by the holder or owner.

10 F. The principal amount of the refunding bonds may
11 exceed the principal amount of the refunded bonds and may also
12 be less than or the same as the principal amount of the bonds
13 being refunded if provision is duly and sufficiently made for
14 the payment of the refunded bonds.

15 G. The proceeds of refunding bonds, including
16 accrued interest and premiums appertaining to the sale of
17 refunding bonds, shall be immediately applied to the retirement
18 of the bonds being refunded or placed in escrow in a commercial
19 bank or trust company that possesses and exercises trust powers
20 and that is a member of the federal deposit insurance
21 corporation.

22 H. Refunding bonds may bear additional terms and
23 provisions as determined by the authority subject to the
24 limitations in this section relating to original bond issues.
25 Refunding bonds are not subject to the provisions of any other

1 statute.

2 I. Refunding bonds:

3 (1) may have interest, principal value or any
 4 part thereof payable at intervals or at maturity, as determined
 5 by the authority;

6 (2) may be subject to prior redemption at the
 7 authority's option at a time or times and upon terms and
 8 conditions with or without payment of premium or premiums, as
 9 determined by the authority;

10 (3) may be serial in form and maturity or may
 11 consist of a single bond payable in one or more installments or
 12 may be in another form, as determined by the authority; and

13 (4) shall be exchanged for the bonds and any
 14 matured unpaid interest being refunded at not less than par or
 15 sold at public or negotiated sale at, above or below par and at
 16 a price that results in a net effective interest rate that does
 17 not exceed the maximum permitted by the Public Securities Act.

18 J. At a regular or special meeting, the authority
 19 may adopt a resolution by majority vote to authorize the
 20 issuance of the refunding bonds.

21 SECTION 12. [NEW MATERIAL] BONDS NOT OBLIGATION OF
 22 STATE.--All bonds or other obligations issued pursuant to the
 23 Hydrogen Hub Development Act are payable solely from the
 24 revenue of the authority that may be pledged to the payment of
 25 such obligations, and the bonds or other obligations shall not

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underscored material = new
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1 create an obligation, debt or liability of the state or of its
2 political subdivisions. No breach of any pledge, obligation or
3 agreement of the authority shall impose a pecuniary liability
4 or a charge upon the general credit or taxing power of the
5 state or of its political subdivisions.

6 SECTION 13. [NEW MATERIAL] REPORT.--By December 1, 2022,
7 and by December 1 of each year thereafter, the board shall
8 provide a report to the governor and the New Mexico finance
9 authority oversight committee regarding:

10 A. hydrogen hubs and hydrogen hub projects approved
11 by the board;

12 B. a description of the businesses and industries
13 participating in each approved hydrogen hub and hydrogen hub
14 project;

15 C. grant and loan applications approved by the
16 board;

17 D. public-private partnership agreements approved
18 by the board;

19 E. the status of the hydrogen hub project fund;

20 F. any certifications for the issuance of revenue
21 or refunding bonds made by the board to the authority; and

22 G. any recommended changes to the Hydrogen Hub
23 Development Act.

24 SECTION 14. [NEW MATERIAL] CUMULATIVE AUTHORITY.--The
25 Hydrogen Hub Development Act shall be deemed to provide an

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1 additional and alternative method for the doing of things
2 authorized by that act and shall be regarded as supplemental
3 and additional to powers conferred by other laws and shall not
4 be regarded as in derogation of any powers now existing;
5 provided that the issuance of bonds pursuant to the provisions
6 of the Hydrogen Hub Development Act need not comply with the
7 requirements of any other law applicable to the issuance of
8 bonds, except the Public Securities Act, the Public Securities
9 Short-Term Interest Rate Act and the Public Securities
10 Limitation of Action Act, which acts shall apply.

11 SECTION 15. A new section of the Income Tax Act is
12 enacted to read:

13 "[NEW MATERIAL] HYDROGEN PRODUCTION AND ENERGY GENERATION
14 INCOME TAX CREDIT.--

15 A. For taxable years prior to January 1, 2032, a
16 taxpayer who is not a dependent of another taxpayer and who
17 holds an interest in a carbon-negative hydrogen production
18 facility or a clean hydrogen production facility may apply for,
19 and the department may allow, a tax credit against the
20 taxpayer's tax liability pursuant to the Income Tax Act
21 pursuant to the provisions of this section. The tax credit
22 provided by this section may be referred to as the "hydrogen
23 production and energy generation income tax credit".

24 B. The tax credit provided by this section shall
25 not be claimed in addition to the renewable energy production

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1 tax credit pursuant to Section 7-2-18.18 NMSA 1978. A taxpayer
2 may claim a tax credit pursuant to only one paragraph of
3 Subsection C of this section or one paragraph of Subsection D
4 of this section.

5 C. For a facility located within a hydrogen hub
6 created pursuant to the Hydrogen Hub Development Act, the
7 amount of tax credit allowed pursuant to this section shall be
8 the following amounts per kilogram of up to seventeen million
9 kilograms of the hydrogen fuel produced in New Mexico in a
10 taxable year:

11 (1) for the production of hydrogen for a
12 hydrogen electric generating facility, thirty cents (\$.30) per
13 kilogram;

14 (2) for the production of hydrogen by a
15 carbon-negative hydrogen production facility, thirty cents
16 (\$.30) per kilogram; or

17 (3) for the production of hydrogen by a clean
18 hydrogen production facility, twenty cents (\$.20) per kilogram.

19 D. For a facility not located within a hydrogen hub
20 created pursuant to the Hydrogen Hub Development Act, the
21 amount of tax credit allowed pursuant to this section shall be
22 the following amounts per kilogram of up to seventeen million
23 kilograms of the hydrogen fuel produced in New Mexico in a
24 taxable year:

25 (1) for the production of hydrogen for a

1 hydrogen electric generating facility, fifteen cents (\$.15) per
2 kilogram;

3 (2) for the production of hydrogen by a
4 carbon-negative hydrogen production facility, fifteen cents
5 (\$.15) per kilogram; or

6 (3) for the production of hydrogen by a clean
7 hydrogen production facility, ten cents (\$.10) per kilogram.

8 E. To be eligible for a hydrogen production and
9 energy generation income tax credit, a taxpayer who derives
10 hydrogen from methane shall use responsibly sourced gas.

11 F. A taxpayer who seeks to claim a tax credit
12 provided by this section shall apply for a certificate of
13 eligibility from the department of environment on forms and in
14 the manner prescribed by that department. The taxpayer shall
15 include with the application an administrative fee, as
16 determined by the department of environment, to cover the
17 reasonable costs of that department to determine whether the
18 facility meets the requirements of this section.

19 G. A taxpayer may apply for the tax credit
20 following commencement of production of hydrogen by a carbon-
21 negative hydrogen production facility or a clean hydrogen
22 production facility. Within one hundred twenty days of
23 receiving a completed application, the department of
24 environment shall issue a certificate of eligibility stating
25 whether the taxpayer is eligible to claim the tax credit

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1 provided by this section and the amount of credit to which the
2 taxpayer is entitled for the taxable year. The certificate of
3 eligibility shall be numbered for identification and declare
4 the date of issuance and the amount of the tax credit allowed.

5 H. A taxpayer who is eligible for a tax credit
6 pursuant to this section shall be eligible for the credit in
7 the amount certified by the department of environment. The
8 taxpayer may claim the credit for sixty consecutive months from
9 the date a carbon-negative hydrogen production facility, a
10 clean hydrogen production facility or a hydrogen electric
11 generating facility begins producing hydrogen. Any portion of
12 the tax credit that remains unused at the end of the taxpayer's
13 taxable year may be carried forward for a maximum of seven
14 consecutive taxable years.

15 I. The department of environment shall:

16 (1) adopt rules establishing procedures to
17 provide certification of the tax credit provided by this
18 section, including requirements related to any necessary annual
19 recertifications; and

20 (2) assess annual fees from persons seeking
21 tax credits pursuant to this section sufficient to cover the
22 reasonable costs of the department of environment's
23 administration and implementation of the tax credit
24 certification rules.

25 J. The energy, minerals and natural resources

1 department shall adopt rules establishing procedures to govern
2 the certification of responsibly sourced gas, including
3 requirements related to any necessary annual recertifications.

4 K. To receive a tax credit provided by this
5 section, a taxpayer shall apply to the department on forms and
6 in the manner prescribed by the department. The application
7 shall include a certificate of eligibility issued by the
8 department of environment pursuant to this section.

9 L. Married individuals filing separate returns for
10 a taxable year for which they could have filed a joint return
11 may each claim only one-half of a tax credit that would have
12 been claimed on a joint return.

13 M. A taxpayer may be allocated the right to claim a
14 tax credit provided by this section in proportion to the
15 taxpayer's ownership interest if the taxpayer owns an interest
16 in a business entity that is taxed for federal income tax
17 purposes as a partnership or limited liability company and that
18 business entity has met all of the requirements to be eligible
19 for the credit. The total credit claimed by all members of the
20 partnership or limited liability company shall not exceed the
21 allowable amount of credit pursuant to this section.

22 N. A taxpayer allowed a tax credit pursuant to this
23 section shall report the amount of the credit to the department
24 in a manner required by the department.

25 O. The department and the department of environment

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1 shall compile an annual report on the tax credit provided by
2 this section that shall include the number of taxpayers
3 approved by the department to receive the credit, the aggregate
4 amount of credits approved and any other information necessary
5 to evaluate the credit. The departments shall present the
6 report to the revenue stabilization and tax policy committee
7 and the legislative finance committee with an analysis of the
8 cost of the tax credit.

9 P. As used in this section:

10 (1) "carbon intensity" means the quantity of
11 carbon dioxide equivalent emitted as determined through a life
12 cycle analysis as expressed in kilograms of carbon dioxide
13 equivalent per kilogram of hydrogen produced;

14 (2) "carbon-negative hydrogen" means hydrogen
15 produced with a carbon intensity less than zero kilograms of
16 carbon dioxide equivalent per kilogram of hydrogen produced;

17 (3) "carbon-negative hydrogen production
18 facility" means a facility located in New Mexico that begins
19 construction prior to January 1, 2032 and produces carbon-
20 negative hydrogen;

21 (4) "clean hydrogen" means whichever of the
22 following results in the lower carbon intensity:

23 (a) hydrogen produced with a carbon
24 intensity equal to or less than two kilograms of carbon dioxide
25 equivalent per kilogram of hydrogen produced; or

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1 (b) hydrogen meeting the standards for
2 clean hydrogen developed pursuant to Section 822 of the federal
3 Energy Policy Act of 2005, as that section may be amended or
4 renumbered;

5 (5) "clean hydrogen production facility" means
6 a facility located in New Mexico that begins construction prior
7 to January 1, 2030 and produces clean hydrogen;

8 (6) "GREET model" means the greenhouse gases,
9 regulated emissions and energy use in technologies model
10 developed by Argonne national laboratory or a successor model;

11 (7) "hydrogen" means the gaseous chemical
12 element whose atomic number is one, that can condense into a
13 liquid or combine with other elements to form a solid or other
14 liquids or gases and is measured in kilograms; provided that
15 energy units, heating values or other forms of measurement of
16 hydrogen shall be converted to mass and expressed in kilograms;

17 (8) "hydrogen electric generating facility"
18 means a facility located in New Mexico that begins construction
19 prior to January 1, 2032 and that uses clean or carbon-negative
20 hydrogen to generate electricity;

21 (9) "interest in a carbon-negative hydrogen
22 production facility or a clean hydrogen production facility"
23 means title to such facility; a leasehold interest in such
24 facility; an ownership interest in a business or entity that is
25 taxed for federal income tax purposes as a partnership that

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1 holds title to or a leasehold interest in such facility; or an
2 ownership interest, through one or more intermediate entities
3 that are each taxed for federal income tax purposes as a
4 partnership, in a business that holds title to or a leasehold
5 interest in such facility;

6 (10) "life cycle analysis" means for hydrogen
7 produced from methane, including feedstock extraction,
8 agricultural waste, biomass or municipal solid waste, or from
9 any other source, including water or wastewater, the quantity
10 of greenhouse gas emissions through the point of hydrogen
11 production, including all stages of production and
12 distribution, from feedstock generation through the delivery
13 and use of the finished fuel or other product for hydrogen
14 production, as determined under the most recent GREET model and
15 certified by an independent third-party entity that is
16 qualified to verify life cycle analyses, as determined by the
17 department of environment;

18 (11) "permanent sequestration of carbon
19 dioxide" means carbon dioxide injected using a well permitted
20 pursuant to Code of Federal Regulations, Title 40, chapter 2,
21 Subchapter D, Part 146, Subpart H, or an equivalent or more
22 stringent state program, and that complies with a monitoring
23 and verification plan approved pursuant to Code of Federal
24 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
25 RR, Section 98.440, Paragraphs (a) and (b), excluding any well

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1 or group of wells where a carbon dioxide stream is being
 2 injected in subsurface geologic formations to enhance the
 3 recovery of oil or natural gas; and

4 (12) "responsibly sourced gas" means gas used
 5 or purchased to produce hydrogen that satisfies the more
 6 stringent of either:

7 (a) the standard for methane gas allowed
 8 to be used in hydrogen hub projects as promulgated by the
 9 federal government pursuant to Title 8 of the federal Energy
 10 Policy Act of 2005; or

11 (b) certification by a qualified
 12 independent organization with nationally recognized expertise
 13 to provide such certification, so long as such certification
 14 ensures using a verifiable audit trail, based in part on field
 15 measurements, that the production and transport of such gas
 16 achieves at least ninety-nine percent gas capture and meets
 17 applicable state or federal air quality emissions control
 18 requirements, and the organization has been approved by the
 19 energy, minerals and natural resources department."

20 SECTION 16. A new section of the Corporate Income and
 21 Franchise Tax Act is enacted to read:

22 "[NEW MATERIAL] HYDROGEN PRODUCTION AND ENERGY GENERATION
 23 CORPORATE INCOME TAX CREDIT.--

24 A. For taxable years prior to January 1, 2032, a
 25 taxpayer that holds an interest in a carbon-negative hydrogen

1 production facility or a clean hydrogen production facility may
2 apply for, and the department may allow, a tax credit against
3 the taxpayer's tax liability pursuant to the Corporate Income
4 and Franchise Tax Act pursuant to the provisions of this
5 section. The tax credit provided by this section may be
6 referred to as the "hydrogen production and energy generation
7 corporate income tax credit".

8 B. The tax credit provided by this section shall
9 not be claimed in addition to the renewable energy production
10 tax credit pursuant to Section 7-2A-19 NMSA 1978. A taxpayer
11 may claim a tax credit pursuant to only one paragraph of
12 Subsection C of this section or one paragraph of Subsection D
13 of this section.

14 C. For a facility located within a hydrogen hub
15 created pursuant to the Hydrogen Hub Development Act, the
16 amount of tax credit allowed pursuant to this section shall be
17 the following amounts per kilogram up to seventeen million
18 kilograms of the hydrogen fuel produced in New Mexico in a
19 taxable year:

20 (1) for the production of hydrogen for a
21 hydrogen electric generating facility, thirty cents (\$.30) per
22 kilogram;

23 (2) for the production of hydrogen by a
24 carbon-negative hydrogen production facility, thirty cents
25 (\$.30) per kilogram; or

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1 (3) for the production of hydrogen by a clean
2 hydrogen production facility, twenty cents (\$.20) per kilogram.

3 D. For a facility not located within a hydrogen hub
4 created pursuant to the Hydrogen Hub Development Act, the
5 amount of tax credit allowed pursuant to this section shall be
6 the following amounts per kilogram of up to seventeen million
7 kilograms of the hydrogen fuel produced in New Mexico in a
8 taxable year:

9 (1) for the production of hydrogen for a
10 hydrogen electric generating facility, fifteen cents (\$.15) per
11 kilogram;

12 (2) for the production of hydrogen by a
13 carbon-negative hydrogen production facility, fifteen cents
14 (\$.15) per kilogram; or

15 (3) for the production of hydrogen by a clean
16 hydrogen production facility, ten cents (\$.10) per kilogram.

17 E. To be eligible for a hydrogen production and
18 energy generation corporate income tax credit, a taxpayer that
19 derives hydrogen from methane shall use responsibly sourced
20 gas.

21 F. A taxpayer that seeks to claim a tax credit
22 provided by this section shall apply for a certificate of
23 eligibility from the department of environment on forms and in
24 the manner prescribed by that department. The taxpayer shall
25 include with the application an administrative fee, as

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1 determined by the department of environment, to cover the
2 reasonable costs of that department to determine whether the
3 facility meets the requirements of this section.

4 G. A taxpayer may apply for the tax credit
5 following commencement of production of hydrogen by a carbon-
6 negative hydrogen production facility or a clean hydrogen
7 production facility. Within one hundred twenty days of
8 receiving a completed application, the department of
9 environment shall issue a certificate of eligibility stating
10 whether the taxpayer is eligible to claim the tax credit
11 provided by this section and the amount of credit to which the
12 taxpayer is entitled for the taxable year. The certificate of
13 eligibility shall be numbered for identification and declare
14 the date of issuance and the amount of the tax credit allowed.

15 H. A taxpayer that is eligible for a tax credit
16 pursuant to this section shall be eligible for the credit in
17 the amount certified by the department of environment. The
18 taxpayer may claim the credit for sixty consecutive months from
19 the date a carbon-negative hydrogen production facility, a
20 clean hydrogen production facility or a hydrogen electric
21 generating facility begins producing hydrogen. Any portion of
22 the tax credit that remains unused at the end of the taxpayer's
23 taxable year may be carried forward for a maximum of seven
24 consecutive taxable years.

25 I. The department of environment shall:

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1 (1) adopt rules establishing procedures to
2 provide certification of the tax credit provided by this
3 section, including requirements related to any necessary annual
4 recertifications; and

5 (2) assess annual fees from persons seeking
6 tax credits pursuant to this section sufficient to cover the
7 reasonable costs of the department of environment's
8 administration and implementation of the tax credit
9 certification rules.

10 J. The energy, minerals and natural resources
11 department shall adopt rules establishing procedures to govern
12 the certification of responsibly sourced gas, including
13 requirements related to any necessary annual recertifications.

14 K. To receive a tax credit provided by this
15 section, a taxpayer shall apply to the department on forms and
16 in the manner prescribed by the department. The application
17 shall include a certificate of eligibility issued by the
18 department of environment pursuant to this section.

19 L. A taxpayer allowed a tax credit pursuant to this
20 section shall report the amount of the credit to the department
21 in a manner required by the department.

22 M. The department and the department of environment
23 shall compile an annual report on the tax credit provided by
24 this section that shall include the number of taxpayers
25 approved by the department to receive the credit, the aggregate

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1 amount of credits approved and any other information necessary
2 to evaluate the credit. The departments shall present the
3 report to the revenue stabilization and tax policy committee
4 and the legislative finance committee with an analysis of the
5 cost of the tax credit.

6 N. As used in this section:

7 (1) "carbon intensity" means the quantity of
8 carbon dioxide equivalent emitted as determined through a life
9 cycle analysis as expressed in kilograms of carbon dioxide
10 equivalent per kilogram of hydrogen produced;

11 (2) "carbon-negative hydrogen" means hydrogen
12 produced with a carbon intensity less than zero kilograms of
13 carbon dioxide equivalent per kilogram of hydrogen produced;

14 (3) "carbon-negative hydrogen production
15 facility" means a facility located in New Mexico that begins
16 construction prior to January 1, 2032 and produces carbon-
17 negative hydrogen;

18 (4) "clean hydrogen" means whichever of the
19 following results in the lower carbon intensity:

20 (a) hydrogen produced with a carbon
21 intensity equal to or less than two kilograms of carbon dioxide
22 equivalent per kilogram of hydrogen produced; or

23 (b) hydrogen meeting the standards for
24 clean hydrogen developed pursuant to Section 822 of the federal
25 Energy Policy Act of 2005, as that section may be amended or

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1 renumbered;

2 (5) "clean hydrogen production facility" means
3 a facility located in New Mexico that begins construction prior
4 to January 1, 2030 and produces clean hydrogen;

5 (6) "GREET model" means the greenhouse gases,
6 regulated emissions and energy use in technologies model
7 developed by Argonne national laboratory, or a successor model;

8 (7) "hydrogen" means the gaseous chemical
9 element whose atomic number is one, that can condense to a
10 liquid or combine with other elements to form a solid or other
11 liquids or gases and is measured in kilograms; provided that
12 energy units, heating values or other forms of measurement of
13 hydrogen shall be converted to mass and expressed in kilograms;

14 (8) "hydrogen electric generating facility"
15 means a facility located in New Mexico that begins construction
16 prior to January 1, 2033, that uses clean or carbon-negative
17 hydrogen to generate electricity;

18 (9) "interest in a carbon-negative hydrogen
19 production facility or a clean hydrogen production facility"
20 means title to such facility; a leasehold interest in such
21 facility; an ownership interest in a business or entity that is
22 taxed for federal income tax purposes as a partnership that
23 holds title to or a leasehold interest in such facility; or an
24 ownership interest, through one or more intermediate entities
25 that are each taxed for federal income tax purposes as a

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1 partnership, in a business that holds title to or a leasehold
2 interest in such facility;

3 (10) "life cycle analysis" means for hydrogen
4 produced from methane, including feedstock extraction,
5 agricultural waste, biomass or municipal solid waste, or from
6 any other source, including water or wastewater, the quantity
7 of greenhouse gas emissions through the point of hydrogen
8 production, including all stages of production and
9 distribution, from feedstock generation through the delivery
10 and use of the finished fuel or other product for hydrogen
11 production, as determined under the most recent GREET model and
12 certified by an independent third-party entity that is
13 qualified to verify life cycle analyses, as determined by the
14 department of environment;

15 (11) "permanent sequestration of carbon
16 dioxide" means carbon dioxide injected using a well permitted
17 pursuant to Code of Federal Regulations, Title 40, chapter 2,
18 Subchapter D, Part 146, Subpart H, or an equivalent or more
19 stringent state program, and that complies with a monitoring
20 and verification plan approved pursuant to Code of Federal
21 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
22 RR, Section 98.440, Paragraphs (a) and (b), excluding any well
23 or group of wells where a carbon dioxide stream is being
24 injected in subsurface geologic formations to enhance the
25 recovery of oil or natural gas; and

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1 (12) "responsibly sourced gas" means gas used
 2 or purchased to produce hydrogen that satisfies the more
 3 stringent of either:

4 (a) the standard for methane gas allowed
 5 to be used in hydrogen hub projects as promulgated by the
 6 federal government pursuant to Title 8 of the federal Energy
 7 Policy Act of 2005; or

8 (b) certification by a qualified
 9 independent organization with nationally recognized expertise
 10 to provide such certification, so long as such certification
 11 ensures using a verifiable audit trail, based in part on field
 12 measurements, that the production and transport of such gas
 13 achieves at least ninety-nine percent gas capture and meets
 14 applicable state or federal air quality emissions control
 15 requirements, and the organization has been approved by the
 16 energy, minerals and natural resources department."

17 SECTION 17. A new section of the Gross Receipts and
 18 Compensating Tax Act is enacted to read:

19 "[NEW MATERIAL] DEDUCTIONS--GROSS RECEIPTS--COMPENSATING
 20 TAX--HYDROGEN-RELATED SALES AND USE.--

21 A. Prior to July 1, 2032, receipts from selling
 22 carbon-negative hydrogen may be deducted from gross receipts.

23 B. Prior to July 1, 2032, sixty-six percent of the
 24 receipts from selling clean hydrogen may be deducted from gross
 25 receipts.

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underscored material = new
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1 C. Prior to July 1, 2032, receipts from selling
2 tangible personal property installed as part of, or services
3 rendered in connection with, constructing and equipping a
4 hydrogen refueling station may be deducted from gross receipts.

5 D. Prior to July 1, 2032, receipts from selling
6 hydrogen-fueled vehicles may be deducted from gross receipts.

7 E. Prior to July 1, 2032, receipts from selling
8 tangible personal property installed as part of a system used
9 for the distribution of hydrogen may be deducted from gross
10 receipts.

11 F. Prior to July 1, 2032, the following amount of
12 receipts from selling or leasing tangible personal property or
13 selling services that are construction plant costs to a person
14 who holds an interest in a carbon-negative hydrogen production
15 facility, a clean hydrogen production facility or a hydrogen
16 electric generating facility may be deducted from gross
17 receipts if the holder of the interest delivers an appropriate
18 nontaxable transaction certificate to the seller or lessor or
19 provides alternative evidence pursuant to Section 7-9-43 NMSA
20 1978:

21 (1) in regard to a carbon-negative hydrogen
22 production facility or a hydrogen electric generating facility,
23 one hundred percent; and

24 (2) in regard to a clean hydrogen production
25 facility, sixty-six percent.

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1 G. Prior to July 1, 2032, the value of carbon-
2 negative hydrogen may be deducted in computing compensating tax
3 due.

4 H. Prior to July 1, 2032, sixty-six percent of the
5 value of clean hydrogen may be deducted in computing
6 compensating tax due.

7 I. Prior to July 1, 2032, the value of tangible
8 personal property installed as part of, or services rendered in
9 connection with, constructing and equipping a hydrogen
10 refueling station may be deducted in computing compensating tax
11 due.

12 J. Prior to July 1, 2032, the value of hydrogen-
13 fueled vehicles may be deducted in computing compensating tax
14 due.

15 K. Prior to July 1, 2032, the value of tangible
16 personal property installed as part of a system used for the
17 distribution of hydrogen may be deducted in computing
18 compensating tax due.

19 L. Prior to July 1, 2032, the following values of
20 construction plant costs incurred by a person who holds an
21 interest in a carbon-negative hydrogen production facility, a
22 clean hydrogen production facility or a hydrogen electric
23 generating facility may be deducted in computing the
24 compensating tax due:

25 (1) in regard to a carbon-negative hydrogen

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1 production facility or a hydrogen electric generating facility,
2 one hundred percent; and

3 (2) in regard to a clean hydrogen production
4 facility, sixty-six percent.

5 M. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department.

8 N. The department shall compile an annual report on
9 the deductions provided by this section that shall include the
10 number of taxpayers that claimed each deduction, the aggregate
11 amount of deductions claimed and any other information
12 necessary to evaluate the effectiveness of the deduction. The
13 department shall present the annual report to the revenue
14 stabilization and tax policy committee and the legislative
15 finance committee with an analysis of the effectiveness and
16 cost of the deductions.

17 O. As used in this section:

18 (1) "carbon intensity" means the quantity of
19 carbon dioxide equivalent emitted as determined through a life
20 cycle analysis as expressed in kilograms of carbon dioxide
21 equivalent per kilogram of hydrogen produced;

22 (2) "carbon-negative hydrogen" means hydrogen
23 produced with a carbon intensity equal to or less than zero
24 kilograms of carbon dioxide equivalent per kilogram of hydrogen
25 produced;

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1 (3) "carbon-negative hydrogen production
2 facility" means a facility located in New Mexico that begins
3 construction prior to January 1, 2032 and produces carbon-
4 negative hydrogen;

5 (4) "clean hydrogen" means whichever of the
6 following results in the lower carbon intensity:

7 (a) hydrogen produced with a carbon
8 intensity equal to or less than two kilograms of carbon dioxide
9 equivalent per kilogram of hydrogen produced; or

10 (b) hydrogen meeting the standards for
11 clean hydrogen developed pursuant to Section 822 of the federal
12 Energy Policy Act of 2005, as that section may be amended or
13 renumbered;

14 (5) "clean hydrogen production facility" means
15 a facility located in New Mexico that begins construction prior
16 to January 1, 2030 and produces clean hydrogen;

17 (6) "construction plant costs" means actual
18 expenditures for the development and construction of a carbon-
19 negative hydrogen production facility, a clean hydrogen
20 production facility or a hydrogen electric generating facility,
21 including permitting; site characterization and assessment;
22 engineering; design; carbon dioxide capture, treatment,
23 compression, transportation and sequestration; site and
24 equipment acquisition; raw materials; and fuel supply
25 development used directly and exclusively in the facility;

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1 (7) "GREET model" means the greenhouse gases,
2 regulated emissions and energy use in technologies model
3 developed by Argonne national laboratory or a successor model;

4 (8) "hydrogen electric generating facility"
5 means a facility located in New Mexico that begins construction
6 prior to January 1, 2032 and that uses clean or carbon-negative
7 hydrogen to generate electricity;

8 (9) "hydrogen-fueled vehicle" means a bus,
9 commercial motor vehicle, off-highway motor vehicle, railroad
10 train, recreational vehicle, road tractor, school bus, special
11 mobile equipment, tank vehicle, truck or truck tractor, as
12 those terms are defined in the Motor Vehicle Code, that is
13 fueled by hydrogen;

14 (10) "hydrogen refueling station" means a
15 refueling station that supplies hydrogen suitable for use as a
16 fuel in hydrogen-fueled vehicles;

17 (11) "interest in a carbon-negative hydrogen
18 production facility, a clean hydrogen production facility or a
19 hydrogen electric generating facility" means title to such
20 facility; a leasehold interest in such facility; an ownership
21 interest in a business or entity that is taxed for federal
22 income tax purposes as a partnership that holds title to or a
23 leasehold interest in such facility; or an ownership interest,
24 through one or more intermediate entities that are each taxed
25 for federal income tax purposes as a partnership, in a business

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1 that holds title to or a leasehold interest in such facility;

2 (12) "life cycle analysis" means, for hydrogen
 3 produced from methane, including feedstock extraction,
 4 agricultural waste, biomass or municipal solid waste, or from
 5 any other source, including water or wastewater, the quantity
 6 of greenhouse gas emissions through the point of hydrogen
 7 production, including all stages of production and
 8 distribution, from feedstock generation through the delivery
 9 and use of the finished fuel or other product for hydrogen
 10 production, as determined under the most recent GREET model and
 11 certified by an independent third-party entity that is
 12 qualified to verify life cycle analyses, as determined by the
 13 department of environment; and

14 (13) "special mobile equipment" means "special
 15 mobile equipment" as defined in the Motor Vehicle Code."

16 SECTION 18. A new Section 74-2-5.5 NMSA 1978 is enacted
 17 to read:

18 "74-2-5.5. [NEW MATERIAL] DEPARTMENT DUTIES AND POWERS--
 19 GREENHOUSE GAS EMISSIONS ASSOCIATED WITH HYDROGEN GENERATION.--

20 A. The department shall:

21 (1) conduct an evaluation of the use of
 22 hydrogen across various sectors of the economy as it relates to
 23 decarbonization in New Mexico;

24 (2) conduct an analysis of greenhouse gas
 25 emissions from hydrogen production, distribution and use in New

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underscored material = new
 [bracketed material] = delete

1 Mexico and identify technologies and methods for controlling
2 such emissions;

3 (3) conduct an analysis of greenhouse gas
4 emissions that are offset by the use of hydrogen in New Mexico;
5 and

6 (4) evaluate the sectors of the economy in
7 which hydrogen may be used, comparing the use of hydrogen to
8 the use of other technologies on a cost and emissions basis.

9 B. The department shall complete the tasks set
10 forth in Subsection A of this section by no later than October
11 1, 2023 and shall submit a report containing the department's
12 findings to the governor, the economic development department
13 and the legislature by October 1, 2023.

14 C. As soon as practicable, but no later than
15 December 1, 2024, the department shall petition the
16 environmental improvement board to promulgate rules setting
17 limits on greenhouse gas emissions from sources that generate
18 hydrogen and any sources directly associated with hydrogen
19 generation. In determining such limits, the board shall
20 consider the data, information and findings in the report
21 compiled by the department pursuant to Subsection B of this
22 section."

23 **SECTION 19.** Section 13-1-98 NMSA 1978 (being Laws 1984,
24 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,
25 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended

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1 to read:

2 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
3 provisions of the Procurement Code shall not apply to:

4 A. procurement of items of tangible personal
5 property or services by a state agency or a local public body
6 from a state agency, a local public body or external
7 procurement unit except as otherwise provided in Sections
8 13-1-135 through 13-1-137 NMSA 1978;

9 B. procurement of tangible personal property or
10 services for the governor's mansion and grounds;

11 C. printing and duplicating contracts involving
12 materials that are required to be filed in connection with
13 proceedings before administrative agencies or state or federal
14 courts;

15 D. purchases of publicly provided or publicly
16 regulated gas, electricity, water, sewer and refuse collection
17 services;

18 E. purchases of books, periodicals and training
19 materials in printed or electronic format from the publishers
20 or copyright holders thereof and purchases of print, digital or
21 electronic format library materials by public, school and state
22 libraries for access by the public;

23 F. travel or shipping by common carrier or by
24 private conveyance or to meals and lodging;

25 G. purchase of livestock at auction rings or to the

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1 procurement of animals to be used for research and
2 experimentation or exhibit;

3 H. contracts with businesses for public school
4 transportation services;

5 I. procurement of tangible personal property or
6 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
7 by the corrections industries division of the corrections
8 department pursuant to rules adopted by the corrections
9 industries commission, which shall be reviewed by the
10 purchasing division of the general services department prior to
11 adoption;

12 J. purchases not exceeding ten thousand dollars
13 (\$10,000) consisting of magazine subscriptions, web-based or
14 electronic subscriptions, conference registration fees and
15 other similar purchases where prepayments are required;

16 K. municipalities having adopted home rule charters
17 and having enacted their own purchasing ordinances;

18 L. the issuance, sale and delivery of public
19 securities pursuant to the applicable authorizing statute, with
20 the exception of bond attorneys and general financial
21 consultants;

22 M. contracts entered into by a local public body
23 with a private independent contractor for the operation, or
24 provision and operation, of a jail pursuant to Sections 33-3-26
25 and 33-3-27 NMSA 1978;

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1 N. contracts for maintenance of grounds and
2 facilities at highway rest stops and other employment
3 opportunities, excluding those intended for the direct care and
4 support of persons with handicaps, entered into by state
5 agencies with private, nonprofit, independent contractors who
6 provide services to persons with handicaps;

7 O. contracts and expenditures for services or items
8 of tangible personal property to be paid or compensated by
9 money or other property transferred to New Mexico law
10 enforcement agencies by the United States department of justice
11 drug enforcement administration;

12 P. contracts for retirement and other benefits
13 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

14 Q. contracts with professional entertainers;

15 R. contracts and expenditures for legal
16 subscription and research services and litigation expenses in
17 connection with proceedings before administrative agencies or
18 state or federal courts, including experts, mediators, court
19 reporters, process servers and witness fees, but not including
20 attorney contracts;

21 S. contracts for service relating to the design,
22 engineering, financing, construction and acquisition of public
23 improvements undertaken in improvement districts pursuant to
24 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
25 improvement districts pursuant to Subsection L of Section

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1 4-55A-12.1 NMSA 1978;

2 T. works of art for museums or for display in
3 public buildings or places;

4 U. contracts entered into by a local public body
5 with a person, firm, organization, corporation or association
6 or a state educational institution named in Article 12, Section
7 11 of the constitution of New Mexico for the operation and
8 maintenance of a hospital pursuant to Chapter 3, Article 44
9 NMSA 1978, lease or operation of a county hospital pursuant to
10 the Hospital Funding Act or operation and maintenance of a
11 hospital pursuant to the Special Hospital District Act;

12 V. purchases of advertising in all media, including
13 radio, television, print and electronic;

14 W. purchases of promotional goods intended for
15 resale by the tourism department;

16 X. procurement of printing, publishing and
17 distribution services for materials produced and intended for
18 resale by the cultural affairs department;

19 Y. procurement by or through the public education
20 department from the federal department of education relating to
21 parent training and information centers designed to increase
22 parent participation, projects and initiatives designed to
23 improve outcomes for students with disabilities and other
24 projects and initiatives relating to the administration of
25 improvement strategy programs pursuant to the federal

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1 Individuals with Disabilities Education Act; provided that the
2 exemption applies only to procurement of services not to exceed
3 two hundred thousand dollars (\$200,000);

4 Z. procurement of services from community
5 rehabilitation programs or qualified individuals pursuant to
6 the State Use Act;

7 AA. purchases of products or services for eligible
8 persons with disabilities pursuant to the federal
9 Rehabilitation Act of 1973;

10 BB. procurement, by either the department of health
11 or Grant county or both, of tangible personal property,
12 services or construction that are exempt from the Procurement
13 Code pursuant to Section 9-7-6.5 NMSA 1978;

14 CC. contracts for investment advisory services,
15 investment management services or other investment-related
16 services entered into by the educational retirement board, the
17 state investment officer or the retirement board created
18 pursuant to the Public Employees Retirement Act;

19 DD. the purchase for resale by the state fair
20 commission of feed and other items necessary for the upkeep of
21 livestock;

22 EE. contracts entered into by the crime victims
23 reparation commission to distribute federal grants to assist
24 victims of crime, including grants from the federal Victims of
25 Crime Act of 1984 and the federal Violence Against Women Act of

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1 1994;

2 FF. procurement by or through the early childhood
3 education and care department of early pre-kindergarten and
4 pre-kindergarten services purchased pursuant to the Pre-
5 Kindergarten Act;

6 GG. procurement of services of commissioned
7 advertising sales representatives for New Mexico magazine;
8 [~~and~~]

9 HH. agreements and contracts entered into pursuant
10 to the Hydrogen Hub Development Act; and

11 [~~HH.~~] II. procurements exempt from the Procurement
12 Code as otherwise provided by law."

13 SECTION 20. Section 62-15-37 NMSA 1978 (being Laws 2007,
14 Chapter 4, Section 4, as amended) is amended to read:

15 "62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE
16 ENERGY.--As used in the Rural Electric Cooperative Act:

17 A. "carbon intensity" means the quantity of all
18 greenhouse gases, measured in carbon dioxide equivalent,
19 emitted as determined through the point of hydrogen production,
20 including all stages of production specified in Subsection B of
21 this section from feedstock generation through delivery and
22 use, as determined under the most recent GREET model and
23 certified by a third-party entity that is qualified to verify
24 such analyses, as determined by the department of environment;

25 B. "clean hydrogen" for purposes of this section

1 refers to hydrogen produced subject to the following
2 requirements:

3 (1) through December 31, 2034:

4 (a) the carbon intensity of such
5 hydrogen, measured at the point of production, shall not exceed
6 one and one-half kilograms of carbon dioxide equivalent per
7 kilogram of hydrogen;

8 (b) all upstream natural gas emissions
9 associated with any methane gas used for the generation of such
10 hydrogen shall be one percent or less by volume of all gas
11 used; and

12 (c) for purposes of compliance with the
13 limits above, producers may account for overcompliance in
14 either Subparagraph (a) or (b) of this paragraph to address
15 undercompliance with a limit in the other, and such adjustments
16 shall be made on a carbon equivalent basis;

17 (2) from January 1, 2035 through December 31,
18 2044:

19 (a) the carbon intensity of such
20 hydrogen, measured at the point of production, shall not exceed
21 one kilogram of carbon dioxide equivalent per kilogram of
22 hydrogen;

23 (b) all upstream natural gas emissions
24 associated with any methane gas used for the generation of such
25 hydrogen shall be six-tenths of one percent or less by volume

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1 of all gas used; and

2 (c) for purposes of compliance with the
3 limits above, producers may account for overcompliance in
4 either Subparagraph (a) or (b) of this paragraph to address
5 undercompliance with a limit in the other, and such adjustments
6 shall be made on a carbon equivalent basis; and

7 (3) after January 1, 2045, the carbon
8 intensity of all such hydrogen shall not exceed zero kilograms
9 of carbon dioxide equivalent per kilogram of hydrogen, and in
10 no event shall any methane used to generate such hydrogen
11 exceed the upstream natural gas emission limits identified in
12 Subparagraph (b) of Paragraph (2) of this subsection;

13 C. "clean hydrogen electric generation facility"
14 means an electric power generation facility located in New
15 Mexico whose electrical output can be controlled to aid in
16 balancing electric supply and that uses one hundred percent
17 clean hydrogen to generate electricity;

18 [A.] D. "energy efficiency" means measures,
19 including energy conservation measures, or programs that target
20 consumer behavior, equipment or devices to result in a decrease
21 in consumption of electricity without reducing the amount or
22 quality of energy services;

23 E. "GREET model" means the greenhouse gases,
24 regulated emissions and energy use in technologies model
25 developed by Argonne national laboratory or a successor model;

1 ~~[B-]~~ F. "renewable energy" means electric energy
 2 generated by use of renewable energy resources and delivered to
 3 a rural electric cooperative;

4 ~~[G-]~~ G. "renewable energy certificate" means a
 5 certificate or other record, in a format approved by the public
 6 regulation commission, that represents all the environmental
 7 attributes from one megawatt-hour of electricity generated from
 8 renewable energy;

9 ~~[D-]~~ H. "renewable energy resource" means electric
 10 or useful thermal energy:

11 (1) generated by use of the following energy
 12 resources, with or without energy storage and delivered to a
 13 rural electric cooperative:

- 14 (a) solar, wind and geothermal;
- 15 (b) hydropower facilities brought in
 16 service on or after July 1, 2007;
- 17 (c) other hydropower facilities
 18 supplying no greater than the amount of energy from hydropower
 19 facilities that were part of an energy supply portfolio prior
 20 to July 1, 2007;
- 21 (d) fuel cells that do not use fossil
 22 fuels to create electricity;
- 23 (e) biomass resources, limited to
 24 agriculture or animal waste, small diameter timber, not to
 25 exceed eight inches, salt cedar and other phreatophyte or woody

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1 vegetation removed from river basins or watersheds in New
2 Mexico; provided that these resources are from facilities
3 certified by the energy, minerals and natural resources
4 department to: 1) be of appropriate scale to have sustainable
5 feedstock in the near vicinity; 2) have zero life cycle carbon
6 emissions; and 3) meet scientifically determined restoration,
7 sustainability and soil nutrient principles; and

8 (f) landfill gas and anaerobically
9 digested waste biomass; and

10 (2) does not include electric energy generated
11 by use of fossil fuel or nuclear energy;

12 [~~E.~~] I. "useful thermal energy" means renewable
13 energy delivered from a source that can be metered and that is
14 delivered in the state to an end user in the form of direct
15 heat, steam or hot water or other thermal form that is used for
16 heating, cooling, humidity control, process use or other valid
17 end-use energy requirements and for which fossil fuel or
18 electricity would otherwise be consumed;

19 [~~F.~~] J. "zero carbon resource" means an electricity
20 generation resource:

21 (1) that emits no carbon dioxide into the
22 atmosphere; [~~o#~~]

23 (2) that reduces methane emitted into the
24 atmosphere in an amount equal to no less than one-tenth of the
25 tons of carbon dioxide emitted into the atmosphere, as a result

1 of electricity production; or

2 (3) is a clean hydrogen electric generation
3 facility; and

4 ~~[G.]~~ K. "zero carbon resource standard" means
5 providing New Mexico rural electric cooperative retail
6 customers with electricity generated from one hundred percent
7 zero carbon resources."

8 **SECTION 21.** Section 62-16-3 NMSA 1978 (being Laws 2004,
9 Chapter 65, Section 3, as amended) is amended to read:

10 "62-16-3. DEFINITIONS.--As used in the Renewable Energy
11 Act:

12 A. "carbon intensity" means the quantity of all
13 greenhouse gases, measured in carbon dioxide equivalent,
14 emitted as determined through the point of hydrogen production,
15 including all stages of production specified in Subsection B of
16 this section from feedstock generation through delivery and
17 use, as determined under the most recent GREET model and
18 certified by a third-party entity that is qualified to verify
19 such analyses, as determined by the department of environment;

20 B. "clean hydrogen" for purposes of this section
21 refers to hydrogen produced subject to the following
22 requirements:

23 (1) through December 31, 2034:

24 (a) the carbon intensity of such
25 hydrogen, measured at the point of production, shall not exceed

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1 one and one-half kilograms of carbon dioxide equivalent per
2 kilogram of hydrogen;

3 (b) all upstream natural gas emissions
4 associated with any methane gas used for the generation of such
5 hydrogen shall be one percent or less by volume of all gas
6 used; and

7 (c) for purposes of compliance with the
8 limits above, producers may account for overcompliance in
9 either Subparagraph (a) or (b) of this paragraph to address
10 undercompliance with a limit in the other, and such adjustments
11 shall be made on a carbon equivalent basis;

12 (2) from January 1, 2035 through December 31,
13 2044:

14 (a) the carbon intensity of such
15 hydrogen, measured at the point of production, shall not exceed
16 one kilogram of carbon dioxide equivalent per kilogram of
17 hydrogen;

18 (b) all upstream natural gas emissions
19 associated with any methane gas used for the generation of such
20 hydrogen shall be six-tenths of one percent or less by volume
21 of all gas used; and

22 (c) for purposes of compliance with the
23 limits above, producers may account for overcompliance in
24 either Subparagraph (a) or (b) of this paragraph to address
25 undercompliance with a limit in the other, and such adjustments

1 shall be made on a carbon equivalent basis; and

2 (3) after January 1, 2045, the carbon
 3 intensity of all such hydrogen shall not exceed zero kilograms
 4 of carbon dioxide equivalent per kilogram of hydrogen, and in
 5 no event shall any methane used to generate such hydrogen
 6 exceed the upstream natural gas emission limits identified in
 7 Subparagraph (b) of Paragraph (2) of this subsection;

8 C. "clean hydrogen electric generation facility"
 9 means an electric power generation facility located in New
 10 Mexico whose electrical output can be controlled to aid in
 11 balancing electric supply and that uses one hundred percent
 12 clean hydrogen to generate electricity;

13 ~~[A.]~~ D. "commission" means the public regulation
 14 commission;

15 ~~[B.]~~ E. "energy storage" means batteries or other
 16 means by which energy can be retained and delivered as
 17 electricity for use at a later time;

18 F. "GREET model" means the greenhouse gases,
 19 regulated emissions and energy use in technologies model
 20 developed by Argonne national laboratory or a successor model;

21 ~~[C.]~~ G. "municipality" means a municipal
 22 corporation, organized under the laws of the state, and H class
 23 counties;

24 ~~[D.]~~ H. "public utility" means an entity certified
 25 by the commission to provide retail electric service in New

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1 Mexico pursuant to the Public Utility Act but does not include
2 rural electric cooperatives;

3 ~~[E.]~~ I. "reasonable cost threshold" means an
4 average annual levelized cost of sixty dollars (\$60.00) per
5 megawatt-hour at the point of interconnection of the renewable
6 energy resource with the transmission system, adjusted for
7 inflation after 2020;

8 ~~[F.]~~ J. "renewable energy" means electric energy
9 generated by use of renewable energy resources and delivered to
10 a public utility;

11 ~~[G.]~~ K. "renewable energy certificate" means a
12 certificate or other record, in a format approved by the
13 commission, that represents all the environmental attributes
14 from one megawatt-hour of electricity generated from renewable
15 energy;

16 ~~[H.]~~ L. "renewable energy resource" means the
17 following energy resources, with or without energy storage:

- 18 (1) solar, wind and geothermal;
- 19 (2) hydropower facilities brought in service
20 on or after July 1, 2007;
- 21 (3) biomass resources, limited to agriculture
22 or animal waste, small diameter timber, not to exceed eight
23 inches, salt cedar and other phreatophyte or woody vegetation
24 removed from river basins or watersheds in New Mexico; provided
25 that these resources are from facilities certified by the

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1 energy, minerals and natural resources department to:

2 (a) be of appropriate scale to have
3 sustainable feedstock in the near vicinity;

4 (b) have zero life cycle carbon
5 emissions; and

6 (c) meet scientifically determined
7 restoration, sustainability and soil nutrient principles;

8 (4) fuel cells that do not use fossil fuels to
9 create electricity; and

10 (5) landfill gas and anaerobically digested
11 waste biogas;

12 [~~F.~~] M. "renewable portfolio standard" means the
13 minimum percentage of retail sales of electricity by a public
14 utility to electric consumers in New Mexico that is required by
15 the Renewable Energy Act to be from renewable energy;

16 [~~J.~~] N. "renewable purchased power agreement" means
17 an agreement that binds an entity generating power from
18 renewable energy resources to provide power at a specified
19 price and binds the purchaser to that price;

20 [~~K.~~] O. "zero carbon resource" means an electricity
21 generation resource:

22 (1) that emits no carbon dioxide into the
23 atmosphere; [~~ø.~~]

24 (2) that reduces methane emitted into the
25 atmosphere in an amount equal to no less than one-tenth of the

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1 tons of carbon dioxide emitted into the atmosphere, as a result
2 of electricity production; or

3 (3) is a clean hydrogen electric generation
4 facility; and

5 ~~[E.]~~ P. "zero carbon resource standard" means
6 providing New Mexico public utility customers with electricity
7 generated from one hundred percent zero carbon resources."

8 SECTION 22. APPLICABILITY.--Sections 15 and 16 of this
9 act apply to taxable years beginning on or after January 1,
10 2022.

11 SECTION 23. EFFECTIVE DATE.--The effective date of the
12 provisions of Section 17 of this act is July 1, 2022.

13 SECTION 24. EMERGENCY.--It is necessary for the public
14 peace, health and safety that this act take effect immediately.

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