

SENATE BILL 4

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Mimi Stewart and Kristina Ortez

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

AN ACT

RELATING TO THE ENVIRONMENT; ESTABLISHING STATEWIDE GREENHOUSE GAS EMISSIONS LIMITS; REQUIRING GREENHOUSE GAS EMISSIONS REPORTING; PROVIDING THAT STATE AGENCIES APPLY CLIMATE EQUITY PRINCIPLES TO POLICY AND RULE DEVELOPMENT; EXPANDING DUTIES AND POWERS OF THE ENVIRONMENTAL IMPROVEMENT BOARD; MAKING AN APPROPRIATION.

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

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SECTION 1. Section 74-1-3 NMSA 1978 (being Laws 1971, Chapter 277, Section 3, as amended) is amended to read:

"74-1-3. DEFINITIONS.--As used in the Environmental Improvement Act:

A. "annual greenhouse gas emissions limit" means the maximum allowable annual quantity of greenhouse gas emissions to meet the greenhouse gas emissions limits established in Subsection A of Section 74-1-19 NMSA 1978;

~~[A.]~~ B. "board" means the environmental improvement board;

~~[B.]~~ C. "carbon intensity" means the quantity of fuel lifecycle greenhouse gas emissions per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule;

~~[C.]~~ D. "department" [~~or "environmental improvement department"~~] means the department of environment;

~~[D.]~~ E. "fuel lifecycle" means an assessment of the aggregate greenhouse gas emissions based on science-based models or protocols, including direct emissions and significant indirect emissions from indirect land use change, all stages of fuel and feedstock production and distribution, feedstock generation or extraction through the distribution, delivery and use of the finished fuel by the consumer, including consideration of storage, transportation and combustion;

F. "greenhouse gas" means gaseous compounds that absorb infrared radiation emitted from the earth's surface and

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trap heat in the earth's atmosphere, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride and sulfur hexafluoride, but not including water vapor;

G. "greenhouse gas decade assessment" means a greenhouse gas inventory and progress report prepared in the year 2031 and every tenth year thereafter;

H. "greenhouse gas inventory and progress report" means the report prepared and published annually by the department that includes an inventory of all statewide greenhouse gas emissions and the progress toward meeting statewide greenhouse gas reductions;

I. "greenhouse gas sector report" means the report prepared and published by the department containing a proposed allocation of the greenhouse gas emissions reductions, by sector;

~~[E-]~~ J. "on-site liquid waste system" means a liquid waste system, or part thereof, serving a dwelling, establishment or group, and using a liquid waste treatment unit designed to receive liquid waste followed by either a soil treatment or other type of disposal system. "On-site liquid waste system" includes holding tanks and privies but does not include systems or facilities designed to receive or treat mine or mill tailings or wastes;

K. "overburdened community" means the minority,

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low-income, tribal and indigenous populations or communities that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards;

[F-] L. "person" means the state or [~~any~~] an agency, institution or political subdivision thereof, [~~any~~] a public or private corporation, individual, partnership, association or other entity and includes [~~any~~] an officer or governing or managing body of [~~any~~] a political subdivision or public or private corporation;

[G-] M. "residential on-site liquid waste system" means an on-site liquid waste system serving up to four dwelling units;

[H-] N. "secretary" means the secretary of environment; [~~and~~]

O. "statewide greenhouse gas emissions" means the total net anthropogenic emissions of greenhouse gases, expressed in carbon dioxide equivalent using a methodology determined to be appropriate by the department, including emissions from electricity generation for consumption in New Mexico, both imported and produced in New Mexico; transportation fuels and heating fuels combusted in New Mexico; buildings and structures; residential, commercial, institutional and industrial waste management; manufacturing processes; the extraction and processing of raw materials;

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production of agricultural and forest products; and oil and gas exploration, production, storage, distribution and transportation in the state; and

[~~F.~~] P. "transportation fuel" means electricity or a liquid, gaseous or blended fuel, including gasoline, diesel, liquefied petroleum gas, natural gas and hydrogen, sold, supplied, used or offered for sale to power vehicles or equipment for the purposes of transportation."

**SECTION 2.** A new section of the Environmental Improvement Act, Section 74-1-19 NMSA 1978, is enacted to read:

"74-1-19. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS LIMITS--REPORTING REQUIREMENTS.--

A. Statewide greenhouse gas emissions shall be limited as follows:

(1) by 2030, at least forty-five percent less than 2005 levels;

(2) by 2040, at least seventy-five percent less than 2005 levels; and

(3) by 2050 and in every subsequent year, one hundred percent less than 2005 levels by means developed by the board.

B. The limits set for 2030 and 2040 shall be achieved solely through direct greenhouse gas emissions reductions.

C. The department shall publish:

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(1) by July 1, 2026 and by July 1 of each successive year, in consultation with the energy, minerals and natural resources department, the department of transportation, the public regulation commission and other appropriate federal, state, local and tribal entities, a greenhouse gas inventory and progress report that includes:

(a) an inventory of all statewide greenhouse gas emissions broken down by sector and that reports on changes from baseline data; and

(b) a progress report that shall, at a minimum contain: 1) a projection of whether the state will meet the statewide greenhouse gas emissions limits in Subsection A of this section; 2) a list of actions that the state is taking, or is planning to take, to meet the statewide greenhouse gas emissions limits in Subsection A of this section; 3) an identification of the actual or expected implementation date of each action; 4) a quantification and analysis of the projected greenhouse gas emissions reductions that each action will achieve; 5) a quantification and analysis, by sector, of all gaps between the projected greenhouse gas emissions reductions and the statewide greenhouse gas emissions limits in Subsection A of this section; 6) recommendations for legislation that would help achieve additional greenhouse gas emissions reductions sufficient to address all such gaps, including an estimate of

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the emissions reductions; and 7) a description of the adverse effects on overburdened communities of state programs to reduce greenhouse gas emissions and a description of the actions each state agency has taken to prevent or minimize those adverse effects; and

(2) by December 31, 2026, in consultation with the energy, minerals and natural resources department, a greenhouse gas sector report containing an allocation by sector of the greenhouse gas emissions reductions that the department determines are necessary to achieve, through rulemaking, the statewide greenhouse gas emissions limits referred to in Subsection A of this section.

D. The first greenhouse gas inventory and progress report shall additionally propose each annual greenhouse gas emissions limit for years 2026 through 2050.

E. When publishing a greenhouse gas inventory and progress report or greenhouse gas sector report under Subsection C of this section, the department shall submit the report to the legislature, post the report on the department's website and mail the report to tribal governments.

F. If the department determines in the greenhouse gas decade assessment that the applicable greenhouse gas emissions limit in this section for the prior year was not achieved, the department shall identify in the report the additional actions, including additional rules, needed to meet

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the statewide greenhouse gas emissions limits in Subsection A of this section by the next greenhouse gas decade assessment."

SECTION 3. A new section of the Environmental Improvement Act is enacted to read:

"[NEW MATERIAL] STATE AGENCIES SHALL APPLY CLIMATE EQUITY PRINCIPLES.--Except when expressly prohibited by law, a state agency shall, to the extent practicable, apply climate equity principles to rule development that:

- A. prioritize greenhouse gas reductions in overburdened communities;
- B. incorporate tribal consultation and outreach to tribal communities in the rulemaking; and
- C. consider how to address adverse health and environmental impacts from greenhouse gases and other pollutants."

SECTION 4. Section 74-2-2 NMSA 1978 (being Laws 1967, Chapter 277, Section 2, as amended) is amended to read:

"74-2-2. DEFINITIONS.--As used in the Air Quality Control Act:

- A. "air contaminant" means a substance, including any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay or reaction product thereof;
- B. "air pollution" means the emission, except emission that occurs in nature, into the outdoor atmosphere of



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one or more air contaminants in quantities and of a duration that may with reasonable probability injure human health or animal or plant life or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property;

C. "annual greenhouse gas emissions limit" means the maximum allowable annual quantity of greenhouse gas emissions to meet the greenhouse gas emissions limits established in Subsection A of Section 74-1-19 NMSA 1978;

[G.] D. "department" means the department of environment;

[D.] E. "director" means the administrative head of a local agency;

[E.] F. "~~[emission]~~ emissions limitation" or "~~[emission]~~ emissions standard" means a requirement established by the environmental improvement board or the local board, the department, the local authority or the local agency or pursuant to the federal act that limits the quantity, rate or concentration, or combination thereof, of emissions of air contaminants on a continuous basis, including any requirements relating to the operation or maintenance of a source to assure continuous reduction;

[F.] G. "federal act" means the federal Clean Air Act, its subsequent amendments and successor provisions;

[G.] H. "federal standard of performance" means a standard of performance, emission limitation or emission

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standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

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

J. "greenhouse gas direct measurement" means regional, local, stationary source or air pollution source monitoring of greenhouse gas emissions used to quantify the amount of greenhouse gases emitted;

K. "greenhouse gas inventory and progress report" means the report prepared and published annually by the department pursuant to Subsection C of Section 74-1-19 NMSA 1978;

L. "greenhouse gas monitoring requirements" means requirements that establish statewide greenhouse gas emissions monitoring and measurement protocols that report emissions in carbon dioxide equivalents, including requirements for greenhouse gas direct measurement, recordkeeping, reporting and verification;

M. "greenhouse gas sector report" means the report prepared and published by the department containing a proposed allocation of the greenhouse gas emissions reductions, by sector;

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[H.] N. "hazardous air pollutant" means an air contaminant that has been listed as a hazardous air pollutant pursuant to the federal act;

[I.] O. "local agency" means the administrative agency established by a local authority pursuant to Paragraph (2) of Subsection A of Section 74-2-4 NMSA 1978;

[J.] P. "local authority" means any of the following political subdivisions of the state that have, by following the procedure set forth in Subsection A of Section 74-2-4 NMSA 1978, assumed jurisdiction for local administration and enforcement of the Air Quality Control Act:

(1) a county that was a class A county as of January 1, 1980; or

(2) a municipality with a population greater than one hundred thousand located within a county that was a class A county as of January 1, 1980;

[K.] Q. "local board" means a municipal, county or joint air quality control board created by a local authority;

[L.] R. "mandatory class I area" means any of the following areas in this state that were in existence on August 7, 1977:

(1) national wilderness areas that exceed five thousand acres in size; and

(2) national parks that exceed six thousand acres in size;

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S. "methane emissions intensity" means the volume of methane emissions from oil and gas exploration and production operations as a percentage of the volume of the total gas marketed, or for oil production sites reporting no gas production, the intensity calculation shall use ten metric tons of methane per million barrels of oil sent to sale;

[M-] T. "modification" means a physical change in, or change in the method of operation of, a source that results in an increase in the potential emission rate of a regulated air contaminant emitted by the source or that results in the emission of a regulated air contaminant not previously emitted, but does not include:

- (1) a change in ownership of the source;
- (2) routine maintenance, repair or replacement;
- (3) installation of air pollution control equipment, and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the environmental improvement board or the local board or pursuant to the federal act; or
- (4) unless previously limited by enforceable permit conditions:
  - (a) an increase in the production rate, if such increase does not exceed the operating design capacity

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of the source;

(b) an increase in the hours of operation; or

(c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable of accommodating such fuel or raw material or if use of an alternate fuel or raw material is caused by a natural gas curtailment or emergency allocation or [~~an other~~] another lack of supply of natural gas;

[N-] U. "nonattainment area" means for an air contaminant an area that is designated "nonattainment" with respect to that contaminant within the meaning of Section 107(d) of the federal act;

V. "overburdened community" means the minority, low-income, tribal and indigenous populations or communities that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards;

[O-] W. "person" includes an individual, partnership, corporation, association, the state or political subdivision of the state and any agency, department or instrumentality of the United States and any of their officers, agents or employees;

[P-] X. "potential emission rate" means the emission rate of a source at its maximum capacity to emit a

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regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department or the local agency pursuant to the Air Quality Control Act or the federal act;

[Q-] Y. "regulated air contaminant" means an air contaminant, the emission or ambient concentration of which is regulated pursuant to the Air Quality Control Act or the federal act;

[R-] Z. "secretary" means the secretary of environment;

[S-] AA. "significant deterioration" means an increase in the ambient concentrations of an air contaminant above the levels allowed by the federal act or federal regulations for that air contaminant in the area within which the increase occurs;

[T-] BB. "source" means a structure, building, equipment, facility, installation or operation that emits or may emit an air contaminant;

[U-] CC. "standard of performance" means a

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requirement of continuous emission reduction, including any requirement relating to operation or maintenance of a source to assure continuous emission reduction;

[V.] DD. "state implementation plan" means a plan submitted by New Mexico to the federal environmental protection agency pursuant to 42 U.S.C. Section 7410; [~~and~~]

EE. "statewide greenhouse gas emissions" means the total net anthropogenic emissions of greenhouse gases, expressed in carbon dioxide equivalent using a methodology determined to be appropriate by the department, including emissions from electricity generation for consumption in New Mexico, both imported and produced in New Mexico; transportation fuels and heating fuels combusted in New Mexico; buildings and structures; residential, commercial, institutional and industrial waste management; manufacturing processes; extraction and processing of raw materials; agricultural products and forest products; and oil and gas exploration, production, storage, distribution and transportation in the state; and

[W.] FF. "toxic air pollutant" means an air contaminant, except a hazardous air pollutant, classified by the environmental improvement board or the local board as a toxic air pollutant."

SECTION 5. A new section of the Air Quality Control Act, Section 74-2-5.4 NMSA 1978, is enacted to read:

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"74-2-5.4. [NEW MATERIAL] ENVIRONMENTAL IMPROVEMENT BOARD AND LOCAL BOARD--ADDITIONAL DUTIES AND POWERS.--

A. The environmental improvement board and local board shall regulate greenhouse gas emissions to meet the statewide greenhouse gas emissions limits established in Subsection A of Section 74-1-19 NMSA 1978. The environmental improvement board and local board shall adopt or amend rules as necessary to meet the greenhouse gas emissions limits established in Subsection A of Section 74-1-19 NMSA 1978.

B. By January 1, 2026, the environmental improvement board and local board shall adopt greenhouse gas monitoring requirements that:

(1) consider data reporting and other requirements already in place;

SCONC→(2) include requirements to monitor, measure, report and verify emissions from all sectors;←SCONC

SCONC→(2)←SCONC SCONC→(3)←SCONC include requirements to monitor, measure, report and verify oil and gas exploration and production operation methane emissions as measured by empirical methods; and

SCONC→(3)←SCONC SCONC→(4)←SCONC shall be utilized by the department in future greenhouse gas inventory and progress reports.

C. By January 1, 2028, the environmental improvement board and local board shall adopt rules for the



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reduction of greenhouse gas emissions from sectors other than SCONC→methane from←SCONC oil and gas exploration and production operations sufficient to meet the statewide greenhouse gas emissions limits in Subsection A of Section 74-1-19 NMSA 1978 and adopt annual greenhouse gas limits considering those annual limits proposed by the department. The department and local agency shall propose rules to the environmental improvement board and local board based on the greenhouse gas sector report. If the department or local agency concludes that it is most efficient to determine all sectors in one rulemaking, the department or local agency may propose rulemaking for all sectors at the same time. If a rule proposed under this subsection would establish an allocation of emissions among sectors, interested parties shall have standing by operation of law to intervene in the rulemaking for the purpose of challenging the allocation.

D. If the environmental improvement board or local board have not promulgated rules pursuant to Subsection C of this section that include methane emissions from oil and gas exploration and production operations, the environmental improvement board or local board shall promulgate by July 1, 2028 a rule that the board determines shall achieve the necessary methane emission reductions from oil and gas exploration and production operations.

E. The rule to achieve greenhouse gas emissions

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reductions from SCONC→~~the oil and gas industry~~←SCONC

SCONC→methane from oil and gas exploration and production operations←SCONC must ensure reductions that are at least

equivalent to:

- (1) by 2030, a level of emissions of no more than three-tenths of one percent methane emissions intensity;
- (2) by 2040, a level of emissions of no more than two-tenths of one percent methane emissions intensity; and
- (3) by 2050, a level of emissions of no more than one-tenth of one percent methane emissions intensity.

F. The environmental improvement board may amend or adopt rules necessary or revise sector allocations to meet the statewide greenhouse gas emissions limits established in Section 74-1-19 NMSA 1978.

G. For a rule adopted pursuant to this section, the environmental improvement board and local board:

- (1) shall ensure that the rules do not have a disparate adverse effect on overburdened communities and apply climate equity principles pursuant to the provisions of the Environmental Improvement Act;
- (2) shall rely, as deemed appropriate, on the greenhouse gas emissions inventory and progress report developed by the department pursuant to Subsection C of Section 74-1-19 NMSA 1978;
- (3) may implement an emissions limitation or

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control measure that results in an enforceable emissions reduction, including those allowed by the federal Clean Air Act, 74 U.S.C. 7410(a)(2);

(4) shall take into consideration other relevant state and federal laws, rules and enforceable requirements that contribute to reductions in greenhouse gas emissions;

(5) may take into consideration federal, state or philanthropic investments, grant programs and financial incentives or voluntary actions taken by local governments and private entities that contribute to reductions in greenhouse gas emissions as the environmental improvement board or the local board deems appropriate;

(6) may take into consideration differences in industry exposure to interstate or international competition and the relative cost of carbon reduction mechanisms;

SCONC→and←SCONC

(7) may address sectors separately or in combination as long as the requirements are otherwise met

SCONC→, and ←SCONC SCONC→. ←SCONC

SCONC→(8)←SCONC

SCONC→H. The environmental improvement board and local board←SCONC shall, at least once every five years, based on information provided by the department, reevaluate the effectiveness of the rules adopted pursuant to this section in

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achieving the statewide greenhouse gas emissions limits in Subsection A of Section 74-1-19 NMSA 1978.

SCONC→**H.**←SCONC SCONC→**I.**←SCONC The environmental improvement board and local board shall develop and may amend a schedule of fees to defray department administrative costs, which shall be deposited in the state air quality permit fund."

**SECTION 6. APPROPRIATION.**--Three million dollars (\$3,000,000) is appropriated from the general fund to the department of environment for expenditure in fiscal year 2026 and subsequent fiscal years to administer the greenhouse gas emissions reduction program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.