

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 9

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

AN ACT

RELATING TO CLIMATE CHANGE SOLUTIONS; ENACTING THE CLIMATE SOLUTIONS ACT; CREATING THE CLIMATE LEADERSHIP COUNCIL; REQUIRING THE DEVELOPMENT OF A STATEWIDE FRAMEWORK TO ADDRESS CLIMATE CHANGE AND DEVELOP A SUSTAINABLE ECONOMY; ESTABLISHING STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION REQUIREMENTS; DIRECTING STATE AGENCIES TO ADOPT RULES AS APPROPRIATE TO A STATE AGENCY'S JURISDICTION TO ACHIEVE STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTIONS AND FOSTER INCLUSION IN WORKFORCE DEVELOPMENT AND PROCUREMENT RELATED TO CLIMATE SOLUTIONS; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT RULES TO MONITOR EMISSIONS REDUCTIONS AND PROVIDE FOR STATE AGENCY REPORTING TO THE CLIMATE LEADERSHIP COUNCIL; REQUIRING ANNUAL REPORTING; DIRECTING THE CLIMATE LEADERSHIP COUNCIL TO RECOMMEND AND PRIORITIZE FUNDING FROM THE CLEAN ENERGY GRANTS FUND; AMENDING A DEFINITION IN THE AIR QUALITY CONTROL ACT TO

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1 ALLOW FOR GREATER OVERSIGHT OF SOURCES OF AIR POLLUTION.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
5 through 9 of this act may be cited as the "Climate Solutions
6 Act".

7 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Climate Solutions Act:

9 A. "council" means the climate leadership council;

10 B. "climate solutions" means strategies developed
11 by the council to meet the greenhouse gas emissions reductions
12 required pursuant to Section 3 of the Climate Solutions Act and
13 to promote equity, a sustainable economy and high-road
14 employment and training;

15 C. "disproportionately impacted community" means a
16 community or population of people for which multiple burdens,
17 including environmental and socioeconomic stressors, inequity,
18 poverty, high unemployment, pollution or discrimination, may
19 act to persistently and negatively affect the health, well-
20 being and environment of the community or population and
21 includes tribal communities, communities of color and
22 low-income rural communities and native people, people of
23 color, women, immigrants, formerly incarcerated people,
24 lesbian, gay, bisexual, transgender and queer people and people
25 with disabilities;

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1 D. "economic inclusion" means high-road employment,
2 training and contracting opportunities and includes improved
3 access to those opportunities for disproportionately impacted
4 communities;

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

11 F. "high-road employment" means jobs with family-
12 sustaining wages and benefits, opportunities for advancement
13 and safe working conditions in industries engaged in
14 sustainable economic development;

15 G. "mitigation" means the reduction of greenhouse
16 gas emissions or the sequestration of carbon and other
17 greenhouse gases;

18 H. "net-zero emissions" means a total of zero
19 greenhouse gas emissions, with any emissions netted against
20 quantifiable, enforceable, additional, permanent and verifiable
21 sequestered greenhouse gases, whether sequestered by
22 biological, chemical or geological means;

23 I. "resilience" means the capability to anticipate,
24 prepare for, respond to and recover from impacts and minimize
25 damage to social well-being, including damage to the economy,

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1 health and the environment;

2 J. "risk" means a combination of the magnitude of a
3 potential climate change impact and the likelihood that the
4 consequence will occur;

5 K. "state agency" means a governmental entity
6 within the executive branch of state government or under the
7 direction of the office of the governor;

8 L. "statewide greenhouse gas emissions" means the
9 total net statewide anthropogenic emissions of greenhouse
10 gases, including emissions from the production of imported
11 electricity and fuels and subtracting any carbon sequestered in
12 the state, expressed as carbon dioxide equivalent calculated
13 using a methodology and data on radiative forcing and
14 atmospheric persistence;

15 M. "statewide strategy" means the strategy for the
16 state to address and prepare for the impacts of climate change,
17 including impacts on health, the economy, society and the
18 environment, developed by the council pursuant to Section 5 of
19 the Climate Solutions Act; and

20 N. "sustainable economy" means an economy that
21 supports high-road employment, thriving communities, a healthy
22 environment and worker and community participation in decision
23 making.

24 SECTION 3. [NEW MATERIAL] STATEWIDE GREENHOUSE GAS
25 EMISSIONS REDUCTIONS AND STRATEGIC PLAN FOR JOB DEVELOPMENT--

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1 POLICY.--

2 A. The state shall achieve:

3 (1) quantifiable and enforceable statewide
4 greenhouse gas emissions reductions that are equivalent to at
5 least fifty percent below 2005 levels by 2030 and net-zero
6 emissions by 2050; and

7 (2) at least a sixty percent reduction in
8 methane, carbon dioxide and volatile organic compound emissions
9 from the oil and gas sector as compared to 2005 emission levels
10 by 2030.

11 B. In moving toward attainment of net-zero
12 emissions by 2050 and implementing climate solutions, the state
13 shall create economic inclusion opportunities by implementing
14 the recommendations contained in the New Mexico clean energy
15 workforce development study commissioned by the workforce
16 solutions department and expanding development of opportunities
17 for New Mexico workers, prioritizing disproportionately
18 impacted communities and historically disadvantaged
19 communities.

20 C. A state agency may use a later baseline year for
21 reductions from the oil and gas sector to ensure the quality of
22 emissions data if the state agency increases the reduction
23 target proportionately to the size of the sector in the new
24 baseline year as compared to 2005 to meet the statewide
25 emissions reductions pursuant to Subsection A of this section.

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1 SECTION 4. ~~[NEW MATERIAL]~~ CLIMATE LEADERSHIP COUNCIL--
2 CREATED.--

3 A. The "climate leadership council" is created for
4 the purpose of achieving emissions reduction targets and
5 developing economic inclusion opportunities as provided in
6 Section 3 of the Climate Solutions Act. The council is
7 administratively attached to the energy, minerals and natural
8 resources department, and the department shall provide
9 administrative and clerical assistance to the council.

10 B. The council shall:

11 (1) consist of the following individuals as
12 voting members:

13 (a) the secretary of environment, or the
14 secretary's designee;

15 (b) the secretary of energy, minerals
16 and natural resources, or the secretary's designee;

17 (c) the secretary of transportation, or
18 the secretary's designee;

19 (d) the secretary of workforce
20 solutions, or the secretary's designee;

21 (e) the secretary of finance and
22 administration, or the secretary's designee;

23 (f) the secretary of general services,
24 or the secretary's designee;

25 (g) the director of the New Mexico

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1 department of agriculture, or the director's designee;

2 (h) the state engineer, or the state
3 engineer's designee;

4 (i) the secretary of economic
5 development, or the secretary's designee;

6 (j) the superintendent of regulation and
7 licensing, or the superintendent's designee;

8 (k) the secretary of Indian affairs, or
9 the secretary's designee; and

10 (l) additional cabinet secretaries or
11 their designees as determined by the governor on a permanent or
12 ad hoc basis; and

13 (2) include as advisory members:

14 (a) one representative of the state land
15 office;

16 (b) one representative of local
17 government;

18 (c) two representatives of tribal
19 governments;

20 (d) two representatives of
21 disproportionately impacted communities;

22 (e) three members, with one each having
23 an expertise in mitigation, economic development or workforce
24 development;

25 (f) one member representing relevant

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1 industry and business sectors that may be affected by the
2 climate solutions proposed; and

3 (g) one member representing relevant
4 industry and business sectors that may be involved in
5 implementing climate solutions.

6 C. The council shall be co-chaired by the secretary
7 of energy, minerals and natural resources and the secretary of
8 environment.

9 D. The co-chairs shall appoint advisory members to
10 the council and, in addition to the economic inclusion subgroup
11 created pursuant to Section 8 of the Climate Solutions Act, may
12 create permanent or ad hoc subgroups of the council with
13 additional advisory members from communities and industries
14 impacted by the topic of the subgroup appointed by the co-
15 chairs. Advisory members of the council or a subgroup of the
16 council shall serve for a term of four years and may be
17 reappointed to serve for one additional term.

18 E. The co-chairs shall convene regular meetings of
19 the council and any subgroup throughout the year as needed to
20 carry out the Climate Solutions Act, but no less than every six
21 months. In addition to the requirements of the Open Meetings
22 Act, meeting notices shall be published in a manner that is
23 reasonably likely to reach members of the public, including
24 tribal members and members of disproportionately impacted
25 communities, that may have an interest in a specific agenda

1 item.

2 F. Public members of the council or a subgroup of
3 the council may receive per diem and mileage as provided in the
4 Per Diem and Mileage Act but shall receive no other
5 compensation, perquisite or allowance.

6 SECTION 5. [NEW MATERIAL] CLIMATE LEADERSHIP COUNCIL--
7 DUTIES--REPORT.--

8 A. The council shall develop a statewide strategy
9 and specific state agency implementation recommendations for
10 New Mexico to achieve the emissions reductions and policy goals
11 of Section 3 of the Climate Solutions Act.

12 B. The statewide strategy shall include a statewide
13 plan that prioritizes the reduction of impacts on
14 disproportionately impacted communities and includes:

- 15 (1) time lines for implementation;
- 16 (2) performance metrics;
- 17 (3) budgets;
- 18 (4) specific recommended climate solutions and
19 the state agencies that have committed to developing rules,
20 policies, programs or partnerships to implement the climate
21 solutions; and
- 22 (5) recommended legislative changes to further
23 resilience, mitigation, diversification and inclusion.

24 C. The council shall provide recommendations and
25 set priorities for expenditures from the clean energy grants

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1 fund, when funds are available, with an emphasis on
2 disproportionately impacted communities, equity and expanding a
3 sustainable economy.

4 D. The council shall submit an annual report to the
5 governor and appropriate interim legislative committees no
6 later than September 15, 2021 and every year thereafter by
7 September 15. The report shall include the progress made
8 toward achieving statewide greenhouse gas emissions reductions
9 pursuant to Section 3 of the Climate Solutions Act, identify
10 legislative changes needed to implement the statewide strategy
11 or identified climate solutions and provide other
12 recommendations to implement the statewide strategy.

13 SECTION 6. [NEW MATERIAL] STATE AGENCIES--RULEMAKING.--

14 A. No later than September 30, 2022, a state
15 agency, or rulemaking body that has the authority to adopt
16 rules for a state agency or has committed to promulgating rules
17 or implementing a policy, program or partnership pursuant to
18 Section 5 of the Climate Solutions Act, shall, consistent with
19 the state agency's area of jurisdiction, promulgate rules or
20 enact policies, programs or partnerships to achieve the policy
21 goals of Section 3 of the Climate Solutions Act and ensure that
22 the emissions reductions of Section 3 of the Climate Solutions
23 Act are met across geographic areas and economic sectors of the
24 state.

25 B. Rules, policies, programs and partnerships

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1 adopted pursuant to this section and Section 7 of the Climate
2 Solutions Act:

3 (1) shall require immediate, reasonable and
4 consistent progress toward the greenhouse gas emissions
5 reductions established in Section 3 of the Climate Solutions
6 Act, taking into account early reductions of emissions in
7 determining whether the requirements of a consistent emissions
8 reductions pathway have cumulatively been met;

9 (2) shall prioritize strategies to reduce air
10 pollution emissions in, and their impacts on, Indian nations,
11 tribes and pueblos and other disproportionately impacted
12 communities in New Mexico;

13 (3) shall account for and include under the
14 statewide emissions limit emissions that occur as a result of
15 electricity and fuels imported into the state, regardless of
16 where they occur;

17 (4) may include regulatory strategies that are
18 being implemented in another jurisdiction, and a state agency
19 may coordinate with another jurisdiction to reduce greenhouse
20 gas emissions; provided that reductions in net greenhouse gas
21 emissions that occur under coordinated programs shall only be
22 accounted for if the implementing rules of each coordinated
23 jurisdiction are sufficiently rigorous to ensure the integrity
24 of the reductions in greenhouse gas emissions in the
25 atmosphere; and

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1 (5) shall be amended from time to time to
2 ensure timely progress toward the emissions reductions
3 established in Section 3 of the Climate Solutions Act and
4 cumulative achievement of the associated emissions reduction
5 pathway and to ensure that the other requirements of this
6 subsection are being met.

7 C. In consultation with the council, a state
8 agency, or a state agency's rulemaking body, shall promulgate
9 rules and policies pursuant to Subsection A of this section
10 that:

11 (1) create incentives to reach emissions
12 limits early, including state-funded incentives authorized by
13 the legislature, create high-road employment and reduce
14 barriers to implementing climate solutions and developing a
15 sustainable economy and promoting economic inclusion;

16 (2) enhance carbon sequestration through
17 natural processes and explore permanent geologic sequestration
18 from industrial sources;

19 (3) improve the resilience of water supplies,
20 including by reducing water consumption, improving water
21 efficiencies, implementing resilient water management
22 strategies, promoting water reuse and ensuring that climate
23 change impacts and risks are fully considered in state water
24 management decisions;

25 (4) increase energy efficiency and zero-

1 emissions energy utilization statewide through regularly
2 updated building and industry standards, support for
3 sustainable building design, construction, management and
4 deconstruction, incentives for installing energy-efficient
5 appliances and fixtures, in particular in low-income
6 communities and other disproportionately impacted communities,
7 utilizing renewable energy sources and contracting for the
8 purchase of renewable energy;

9 (5) reduce emissions from vehicles by reducing
10 emissions from state and corporate vehicle fleets, increasing
11 public transit options, increasing the use of alternative fuel
12 vehicles, increasing the use and availability of low- and zero-
13 emitting vehicles as allowed under Section 177 of the federal
14 Clean Air Act and using regulatory frameworks that are at least
15 as stringent as applicable federal law;

16 (6) eliminate waste sent to landfills and
17 prevent pollution by minimizing the generation of waste and
18 pollutants, diverting more waste for beneficial use, reducing
19 the purchase and use of paper and single-use plastics,
20 increasing the use of compostable and organic materials and
21 decreasing the use of chemicals;

22 (7) provide data, science, tools and support
23 to communities to plan for and implement strategies to foster
24 climate resilience and mitigation, including planning with
25 community and industry partners and through coordination of

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1 state research, higher education, public education, cultural
2 affairs and extension programs; and

3 (8) provide requirements for the use of
4 project labor agreements or community workforce agreements for
5 projects developed and constructed in accordance with the
6 requirements of climate solutions pursuant to the Climate
7 Solutions Act.

8 D. A state agency shall fully consider and account
9 for climate risks and impacts, the statewide emissions
10 reductions established in Section 3 of the Climate Solutions
11 Act and the reduction of other harmful emissions in its rules,
12 programs, investments, infrastructure and natural resource
13 planning and management.

14 SECTION 7. [NEW MATERIAL] DEPARTMENT OF ENVIRONMENT--
15 RULEMAKING.--In addition to rulemaking pursuant to Section 6 of
16 the Climate Solutions Act, the department of environment,
17 pursuant to rules adopted by the environmental improvement
18 board by September 30, 2022, and amended as needed, shall
19 ensure that the state attains quantifiable, enforceable
20 reductions in greenhouse gas emissions to meet the statewide
21 emissions reductions established in Section 3 of the Climate
22 Solutions Act and shall address any deficit in achieving the
23 required emissions reductions statewide through the
24 promulgation of rules as needed to achieve the reductions
25 required by Section 3 of the Climate Solutions Act. The

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1 environmental improvement board's rules:

2 A. shall include and provide for the execution of
3 protocols:

4 (1) for the department of environment to track
5 all statewide greenhouse gas and air pollutant emissions,
6 quantify emissions from fuels extracted and exported from New
7 Mexico and track the reductions of emissions of greenhouse
8 gases and other harmful pollutants that have been achieved
9 through the implementation of state agency rules, policies,
10 programs and partnerships pursuant to Section 6 of the Climate
11 Solutions Act;

12 (2) for the department of environment to track
13 the impacts of current emissions of air pollutants on
14 disproportionately impacted communities and certify that the
15 state through its state agencies is cumulatively meeting or
16 exceeding the reductions required by a consistently declining
17 emissions reduction pathway pursuant to Section 3 of the
18 Climate Solutions Act; and

19 (3) for a state agency acting pursuant to the
20 Climate Solutions Act to report to the council on a consistent
21 and timely basis the emissions impact of the state agency's
22 rules, policies, programs or partnerships implemented pursuant
23 to Section 6 of the Climate Solutions Act; and

24 B. may take into account rules that other state
25 agencies and local jurisdictions have adopted and that remain

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1 in effect, to the extent that those rules require quantifiable
2 and enforceable reductions of greenhouse gas emissions.

3 SECTION 8. [NEW MATERIAL] ECONOMIC INCLUSION SUBGROUP--
4 MEMBERSHIP--DUTIES--STRATEGIC PLAN.--

5 A. By no later than August 1, 2021, the co-chairs
6 of the council shall convene, in collaboration with the
7 secretaries of economic development and workforce solutions, an
8 economic inclusion subgroup. The economic inclusion subgroup
9 shall be co-chaired by the secretaries of economic development
10 and workforce solutions.

11 B. The voting membership of the economic inclusion
12 subgroup shall consist of one representative each from the:

- 13 (1) economic development department;
- 14 (2) workforce solutions department;
- 15 (3) department of finance and administration;
- 16 (4) taxation and revenue department;
- 17 (5) general services department;
- 18 (6) higher education department;
- 19 (7) public education department;
- 20 (8) state investment council; and
- 21 (9) Indian affairs department.

22 C. Advisory members of the economic inclusion
23 subgroup shall be appointed by the co-chairs of the council,
24 shall not be advisory members of the council and shall consist
25 of:

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- 1 (1) one representative of the state land
2 office;
- 3 (2) one representative of tribal governments
4 and organizations;
- 5 (3) one representative of local governments;
- 6 (4) two representatives of disproportionately
7 impacted communities or organizations with experience working
8 with disproportionately impacted communities;
- 9 (5) two representatives of organizations with
10 experience in sustainable economic development planning and
11 workforce development; and
- 12 (6) one representative from industry sectors
13 involved in achieving the goals of Section 3 of the Climate
14 Solutions Act.

15 D. The economic inclusion subgroup may create
16 working groups on specific topics. A working group shall
17 include advisory members, appointed by the co-chairs of the
18 council, from communities and industries impacted by the topic.

19 E. The economic inclusion subgroup shall develop an
20 economic inclusion strategic plan that provides specific and
21 measurable steps to implement the recommendations contained in
22 the New Mexico clean energy workforce development study
23 commissioned by the workforce solutions department and to
24 expand economic inclusion and development in the equitable
25 attainment of net-zero emissions levels by 2050 and

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1 implementation of the climate solutions proposed by the
2 council, including, as appropriate, with the use of an
3 environmental justice screening tool. The economic inclusion
4 strategic plan shall:

5 (1) be informed by input from communities
6 across New Mexico, including, and with a focus on,
7 disproportionately impacted communities and communities likely
8 to be affected by changes in local economic activities in the
9 transition to achieving net-zero emissions levels;

10 (2) with input from relevant state agencies,
11 include a plan to implement the recommendations of the New
12 Mexico clean energy workforce development study;

13 (3) identify ways to expand and diversify New
14 Mexico's economy to:

15 (a) enhance and expand sustainable
16 economic opportunity, investment and employment;

17 (b) create new and high-road employment
18 opportunities;

19 (c) diversify the state's revenue and
20 tax base to stabilize the state's budget;

21 (d) increase overall economic stability
22 and resilience of the state's economy; and

23 (e) advance the social, ecological and
24 cultural resilience of communities;

25 (4) identify policy changes or recommended

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1 statutory changes to the Procurement Code to support supplier
2 diversity and economic inclusion, including the setting and
3 tracking of targets for state agencies and local public bodies
4 to contract with businesses located in New Mexico that provide
5 high-road employment opportunities, businesses owned by Black
6 or African American people, indigenous people and people of
7 color and businesses located in disproportionately impacted
8 communities;

9 (5) identify how to ensure that apprenticeship
10 and job training programs that receive state funds shall be
11 accessible to individuals with limited English proficiency;

12 (6) identify methods to support communities in
13 developing short-term and long-term plans for local sustainable
14 economic development and job creation that:

15 (a) advance local community goals and
16 priorities;

17 (b) expand opportunities for local
18 employment and workforce development;

19 (c) advance economic inclusion for New
20 Mexicans;

21 (d) create enhanced opportunities for
22 New Mexicans to access capital and resources to create and
23 expand sustainable jobs and businesses; and

24 (e) support communities in expanding
25 economic opportunities in ways that are culturally appropriate

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1 and affirming; and

2 (7) advise and work with state agencies to
3 implement the economic inclusion strategic plan with the goal
4 of expanding sustainable economic opportunity in New Mexico.

5 F. The economic inclusion subgroup shall provide an
6 annual report, in conjunction with the annual report of the
7 council pursuant to Section 5 of the Climate Solutions Act, to
8 the governor and the appropriate interim legislative committees
9 beginning no later than September 15, 2021, and every year
10 thereafter on September 15. The report shall include progress
11 on implementation of the recommendations of the New Mexico
12 clean energy workforce development study, identify legislative
13 changes needed to implement the economic inclusion statewide
14 plan and provide other recommendations to implement the
15 statewide strategy.

16 SECTION 9. [NEW MATERIAL] RULEMAKING RELATED TO ECONOMIC
17 INCLUSION.--

18 A. By September 30, 2022, the general services
19 department shall, to the extent authorized within the agency's
20 statutory authority, adopt procurement rules for climate
21 solutions projects to ensure that all New Mexico workers,
22 especially in disproportionately impacted communities, have
23 opportunities to access the jobs created by the implementation
24 of climate solutions, identify ways to ensure that all New
25 Mexicans have an opportunity to participate in governmental

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1 procurement for climate solutions projects and consider the use
2 of incentives to achieve inclusion of all interested New
3 Mexicans. If the general services department concludes that
4 additional legislative authority is needed to implement the
5 economic inclusion strategic plan developed by the economic
6 inclusion subgroup, it shall identify the legislative authority
7 needed in the report required pursuant to Section 5 of the
8 Climate Solutions Act.

9 B. By September 30, 2022, the workforce solutions
10 department, to the extent authorized within the agency's
11 statutory authority, shall adopt workforce development rules
12 for climate solutions projects to ensure that all New Mexico
13 workers have opportunities to access jobs created by the
14 implementation of climate solutions and that a sustainable
15 economy is created for all workers, with priority given to
16 disproportionately impacted communities. The workforce
17 solutions department shall develop training and registered
18 apprenticeship opportunities for all New Mexicans interested in
19 training for jobs created through the achievement of greenhouse
20 gas emissions reductions and shall consider the use of
21 incentives to achieve inclusion of all interested New Mexicans.
22 If the workforce solutions department concludes that additional
23 legislative authority is needed to implement the economic
24 inclusion strategic plan developed by the economic inclusion
25 subgroup, it shall identify the legislative authority needed in

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1 the report required pursuant to Section 5 of the Climate
2 Solutions Act.

3 SECTION 10. Section 71-7-6 NMSA 1978 (being Laws 2004,
4 Chapter 55, Section 6) is amended to read:

5 "71-7-6. CLEAN ENERGY GRANTS PROGRAM.--

6 A. The secretary shall establish the clean energy
7 grants program to provide clean energy grants to:

- 8 (1) municipalities and county governments;
- 9 (2) state agencies;
- 10 (3) state universities;
- 11 (4) public schools;
- 12 (5) post-secondary educational institutions;

13 and

- 14 (6) Indian nations, tribes and pueblos.

15 B. The climate leadership council pursuant to the
16 Climate Solutions Act shall provide recommendations to the
17 secretary and set priorities for expenditures from the clean
18 energy grants fund, when funds are available. The secretary
19 may make grants from the fund for physical projects utilizing
20 clean energy technologies and clean energy education, technical
21 assistance and training programs. The department may use no
22 more than one hundred thousand dollars (\$100,000) from the fund
23 for the administration of the grants program and to conduct
24 research or studies directly related to the Advanced Energy
25 Technologies Economic Development Act.

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1 C. The department may adopt rules establishing the
2 application procedure and required qualifications of projects.
3 No single entity shall receive greater than one hundred
4 thousand dollars (\$100,000) from the fund. Factors that may be
5 considered in approving or denying disbursements from the fund
6 are the:

7 (1) [~~the~~] geographic area of the state in
8 which the project is to be conducted in relation to other
9 projects;

10 (2) percentage of cash or in-kind
11 contributions applied to the total project;

12 (3) [~~the~~] extent to which the project
13 incorporates an innovative new technology or an innovative
14 application of an existing technology;

15 (4) [~~the~~] degree to which the project will
16 reduce the entity's energy-related expenditures;

17 (5) [~~the~~] degree to which the project fosters
18 the general public's, students' or a specific government or
19 industry sector's overall understanding and appreciation of
20 clean energy technologies; [~~and~~]

21 (6) [~~the~~] extent to which the project
22 stimulates in-state economic development, including jobs
23 creation, and further development of a commercial market for
24 clean energy technologies; and

25 (7) extent to which the project will improve

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1 or expand access to high-road employment for disproportionately
2 impacted communities, as defined in the Climate Solutions Act.

3 D. Except as provided otherwise in this section,
4 the department shall disburse:

5 (1) no less than three hundred thousand
6 dollars (\$300,000) to municipalities and county governments;

7 (2) no less than three hundred thousand
8 dollars (\$300,000) to state universities and post-secondary
9 educational institutions;

10 (3) no less than three hundred thousand
11 dollars (\$300,000) to Indian nations, tribes and pueblos; and

12 (4) no more than two hundred thousand dollars
13 (\$200,000) to state agencies and public schools.

14 E. The minimum disbursements designated in this
15 section may be amended by the department if an insufficient
16 number of qualified projects are applied for by entities
17 seeking grant funding within a particular category or
18 categories.

19 F. The department shall report on disbursements
20 made from the fund to the legislative finance committee prior
21 to each regular legislative session. The report shall include:

22 (1) a list of recipients receiving
23 disbursements;

24 (2) the amount of each disbursement;

25 (3) the date of each disbursement;

1 (4) a description of each project or expansion
2 funded with a disbursement;

3 (5) a description of each project's
4 contribution to the state's knowledge and use of clean energy
5 technologies; and

6 (6) a description of the extent to which the
7 grants program is [~~benefitting~~] benefiting the state's
8 environment, public health and economic development."

9 SECTION 11. Section 74-2-2 NMSA 1978 (being Laws 1967,
10 Chapter 277, Section 2, as amended) is amended to read:

11 "74-2-2. DEFINITIONS.--As used in the Air Quality Control
12 Act:

13 A. "air contaminant" means a substance, including
14 any particulate matter, fly ash, dust, fumes, gas, mist, smoke,
15 vapor, micro-organisms, radioactive material, any combination
16 thereof or any decay or reaction product thereof;

17 B. "air pollution" means the emission, except
18 emission that occurs in nature, into the outdoor atmosphere of
19 one or more air contaminants in quantities and of a duration
20 that may with reasonable probability injure human health or
21 animal or plant life or as may unreasonably interfere with the
22 public welfare, visibility or the reasonable use of property;

23 C. "department" means the department of
24 environment;

25 D. "director" means the administrative head of a

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1 local agency;

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

10 F. "federal act" means the federal Clean Air Act,
11 its subsequent amendments and successor provisions;

12 G. "federal standard of performance" means a
13 standard of performance, emission limitation or emission
14 standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

15 H. "hazardous air pollutant" means an air
16 contaminant that has been listed as a hazardous air pollutant
17 pursuant to the federal act;

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

21 J. "local authority" means any of the following
22 political subdivisions of the state that have, by following the
23 procedure set forth in Subsection A of Section 74-2-4 NMSA
24 1978, assumed jurisdiction for local administration and
25 enforcement of the Air Quality Control Act:

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

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

6 K. "local board" means a municipal, county or joint
7 air quality control board created by a local authority;

8 L. "mandatory class I area" means any of the
9 following areas in this state that were in existence on August
10 7, 1977:

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

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

15 M. "modification" means a physical change in, or
16 change in the method of operation of, a source that results in
17 an increase in the potential emission rate of a regulated air
18 contaminant emitted by the source or that results in the
19 emission of a regulated air contaminant not previously emitted,
20 but does not include:

21 (1) a change in ownership of the source;

22 (2) routine maintenance, repair or
23 replacement;

24 (3) installation of air pollution control
25 equipment, and all related process equipment and materials

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1 necessary for its operation, undertaken for the purpose of
2 complying with regulations adopted by the environmental
3 improvement board or the local board or pursuant to the federal
4 act; or

5 (4) unless previously limited by enforceable
6 permit conditions:

7 (a) an increase in the production rate,
8 if such increase does not exceed the operating design capacity
9 of the source;

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

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

18 N. "nonattainment area" means for an air
19 contaminant an area that is designated "nonattainment" with
20 respect to that contaminant within the meaning of Section
21 107(d) of the federal act;

22 O. "person" includes an individual, partnership,
23 corporation, association, the state or political subdivision of
24 the state and any agency, department or instrumentality of the
25 United States and any of their officers, agents or employees;

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1 P. "potential emission rate" means the emission
2 rate of a source at its maximum capacity to emit a regulated
3 air contaminant under its physical and operational design,
4 provided any physical or operational limitation on the capacity
5 of the source to emit a regulated air contaminant, including
6 air pollution control equipment and restrictions on hours of
7 operation or on the type or amount of material combusted,
8 stored or processed, shall be treated as part of its physical
9 and operational design only if the limitation or the effect it
10 would have on emissions is enforceable by the department or the
11 local agency pursuant to the Air Quality Control Act or the
12 federal act;

13 Q. "regulated air contaminant" means an air
14 contaminant, the emission or ambient concentration of which is
15 regulated pursuant to the Air Quality Control Act or the
16 federal act;

17 R. "secretary" means the secretary of environment;

18 S. "significant deterioration" means an increase in
19 the ambient concentrations of an air contaminant above the
20 levels allowed by the federal act or federal regulations for
21 that air contaminant in the area within which the increase
22 occurs;

23 T. "source" means a structure, building, equipment,
24 facility, installation or operation [~~that emits or may emit an~~]
25 at, from or by reason of which an air contaminant is emitted;

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