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SENATE BILL

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

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE CLEAN FUEL STANDARD ACT; PROVIDING FOR THE ESTABLISHMENT OF A CLEAN FUEL STANDARD FOR TRANSPORTATION FUELS; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO PROMULGATE RULES TO IMPLEMENT THE CLEAN FUEL STANDARD ACT; IMPLEMENTING THE ASSESSMENT OF AN ANNUAL REGISTRATION FEE; CREATING THE CLEAN FUEL STANDARD FUND; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Clean Fuel Standard Act."

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

A. "board" means the environmental improvement

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1 board;

2 B. "carbon intensity" means the quantity of fuel
3 lifecycle emissions per unit of fuel energy, expressed in grams
4 of carbon dioxide equivalent per megajoule;

5 C. "clean fuel standard" means a standard
6 applicable to transportation fuels that reduces greenhouse gas
7 emissions, on average, per unit of fuel energy;

8 D. "credit" means a unit of measure assigned to a
9 person who generates greenhouse gas emission reductions that is
10 used to comply with the clean fuel standard, such that one
11 credit is equal to one metric ton of carbon dioxide equivalent;

12 E. "deficit" means a unit of measure assigned to
13 the provider of a transportation fuel that has a carbon
14 intensity greater than the applicable standard, such that one
15 deficit is equal to one metric ton of carbon dioxide
16 equivalent;

17 F. "department" means the department of
18 environment;

19 G. "disproportionately impacted communities" means
20 disadvantaged communities or communities or populations of
21 people for which multiple burdens, including environmental and
22 socioeconomic stressors, inequity, poverty, high unemployment,
23 pollution or discrimination, may act to persistently and
24 negatively affect the health, well-being and environment of the
25 communities or populations;

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1 H. "fuel lifecycle emissions" means the aggregate
2 quantity of direct and indirect greenhouse gas emissions across
3 the full fuel lifecycle, including all stages of fuel and
4 feedstock production and distribution, from extraction or
5 feedstock generation through the distribution, delivery and use
6 of the finished fuel by the ultimate consumer, where the mass
7 values for all greenhouse gases are adjusted to account for
8 their relative global warming potential;

9 I. "fuel pathway" means a detailed description of
10 all stages of production and uses for a transportation fuel,
11 including feedstock generation or extraction, production,
12 distribution and combustion and use of the fuel by the consumer
13 that is used to calculate the fuel lifecycle emissions of a
14 transportation fuel;

15 J. "greenhouse gas" means carbon dioxide, methane,
16 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur
17 hexafluoride;

18 K. "motor vehicle" means "motor vehicle" and
19 "special mobile equipment", as those terms are defined in the
20 Motor Vehicle Code;

21 L. "provider" means a person that produces in New
22 Mexico or imports into New Mexico transportation fuel; and

23 M. "transportation fuel" means electricity or a
24 liquid or gaseous fuel that is blended, sold, supplied, offered
25 for sale or used for the propulsion of a motor vehicle, or that

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1 is intended for use in a motor vehicle, in New Mexico and that
2 meets applicable standards, specifications and testing
3 requirements for motor vehicle fuel quality.

4 SECTION 3. [NEW MATERIAL] CLEAN FUEL STANDARD--
5 ESTABLISHED--RULEMAKING.--

6 A. The board shall adopt rules to implement the
7 Clean Fuel Standard Act.

8 B. The Clean Fuel Standard Act shall apply to
9 providers.

10 C. In adopting rules, the board shall take into
11 consideration equivalent programs adopted by other
12 jurisdictions and may coordinate with other jurisdiction to
13 promote regional reductions in greenhouse gas emissions.

14 D. No later than twenty-four months after the
15 effective date of the Clean Fuel Standard Act, the department
16 shall petition the board to promulgate rules to implement the
17 Clean Fuel Standard Act. The rules shall:

18 (1) establish the clean fuel standard based on
19 a schedule for annually decreasing the carbon intensity of
20 transportation fuels used in New Mexico. The schedule shall
21 reduce the average amount of greenhouse gas emissions per unit
22 of fuel energy by a minimum of twenty percent below 2018 levels
23 by 2030 and by a minimum of thirty percent below 2018 levels by
24 2040;

25 (2) establish a process to determine carbon

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1 intensity values for transportation fuels that does not
2 discriminate against fuels on the basis of having originated in
3 another state or jurisdiction. Nothing in this paragraph shall
4 be construed to prohibit the inclusion or assessment of
5 emissions related to fuel production, storage, transportation
6 or combustion or associated changes in land use in determining
7 the carbon intensity of a fuel;

8 (3) require the use of nationally or
9 regionally recognized models or protocols for determining fuel
10 lifecycle emissions and indirect land use changes in
11 establishing the carbon intensity value for transportation
12 fuels;

13 (4) establish a process for providers to
14 comply with the Clean Fuel Standard Act by obtaining and
15 retiring credits;

16 (5) establish a mechanism for the generation
17 of credits, which may include projects in the agricultural,
18 aviation, chemical, carbon sequestration, dairy, direct air
19 capture, energy, film, forestry, manufacturing, methane capture
20 and use, mining, oil and gas, transportation, including
21 transportation infrastructure or manufacturing, waste
22 management or wastewater treatment sectors; provided that, with
23 the exception of carbon sequestration and direct air capture,
24 projects shall reduce greenhouse gas emissions in the
25 transportation fuel supply chain in New Mexico in order to

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1 generate credits; and provided further that, to be eligible for
2 a credit pursuant to this paragraph, carbon sequestration and
3 direct air capture projects shall result in additional,
4 quantifiable, verifiable, permanent and enforceable greenhouse
5 gas emission reductions in New Mexico;

6 (6) require the annual registration of
7 providers and any person generating credits;

8 (7) require the assessment of a reasonable
9 annual registration fee for providers and any person generating
10 credits that is sufficient to cover the reasonable costs of the
11 department's administration and enforcement of the Clean Fuel
12 Standard Act and implementation of rules. Fees collected
13 pursuant to this paragraph shall be deposited in the clean fuel
14 standard fund;

15 (8) require providers to demonstrate
16 compliance with the clean fuel standard by balancing credits
17 and deficits on an annual basis and submitting fuel pathway
18 applications, fuel transactions and carbon intensity data to
19 the department;

20 (9) establish a fair market for credit
21 transactions that is administered by the department or a third
22 party. The board shall adopt rules for market management,
23 including transaction fees, cost-containment measures or other
24 mechanisms that enable credits to be traded or to be banked for
25 future compliance periods and procedures for verifying the

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1 validity of credits and deficits generated under the Clean Fuel
2 Standard Act;

3 (10) require third-party certifications of
4 fuel pathway applications and third-party verifications of fuel
5 transactions and carbon intensity data on an annual basis, at
6 the expense of the provider or any person generating credits;

7 (11) establish requirements and an
8 accreditation process for third-party verification, including
9 acceptance of verification entities that are accredited by
10 another state that adopts a low-carbon fuel standard and
11 establishes a third-party verification program;

12 (12) prioritize mechanisms for credit
13 generation that benefit disproportionately impacted,
14 environmental justice and rural communities and reduce
15 cumulative impacts; and

16 (13) require electric utilities that generate
17 credits from electricity used as transportation fuel to use at
18 least fifty percent of the revenues generated from the credits
19 for transportation electrification projects, rebates for
20 electric vehicle purchases or the provision of direct benefits
21 for current electric vehicle customers; provided that of the
22 fifty percent, at least thirty percent in year one, forty
23 percent in year two and fifty percent in subsequent years shall
24 be used to support transportation electrification that
25 primarily benefits disproportionately impacted, environmental

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1 justice or rural communities.

2 E. The department is responsible for the
3 administration of the clean fuel standard and credits,
4 including implementation and enforcement of the rules adopted
5 by the board pursuant to the Clean Fuel Standard Act.

6 F. As part of the rulemaking required pursuant to
7 this section, the department, in consultation with the New
8 Mexico department of agriculture, shall develop an emergency
9 deferral process for the department, in consultation with
10 stakeholders, to temporarily suspend the implementation of a
11 clean fuel standard to address market conditions. The rules
12 shall require the department to consider a provider's request
13 for emergency deferral.

14 SECTION 4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--
15 CREATED.--The "clean fuel standard fund" is created as a
16 nonreverting fund in the state treasury. The fund consists of
17 appropriations, gifts, grants, donations, income from
18 investment of the fund and fees collected from the regulation
19 of transportation fuels pursuant to the Clean Fuel Standard
20 Act. Money in the fund is appropriated to the department and
21 shall be administered by the department for staffing and
22 resources needed for administration and enforcement of rules
23 pertaining to transportation fuels. Disbursements from the
24 fund shall be by warrant drawn by the secretary of finance and
25 administration pursuant to vouchers signed by the secretary of

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1 environment or the secretary's designee. Any unexpended or
2 unencumbered balance in the clean fuel standard fund remaining
3 at the end of any fiscal year shall not revert to the general
4 fund.

5 SECTION 5. Section 74-1-8 NMSA 1978 (being Laws 1971,
6 Chapter 277, Section 11, as amended) is amended to read:

7 "74-1-8. BOARD--DUTIES.--

8 A. The board is responsible for environmental
9 management and consumer protection. In that respect, the board
10 shall promulgate rules and standards in the following areas:

11 (1) food protection;

12 (2) water supply, including a capacity
13 development program to assist water systems in acquiring and
14 maintaining technical, managerial and financial capacity in
15 accordance with Section 1420 of the federal Safe Drinking Water
16 Act of 1974 and rules authorizing imposition of administrative
17 penalties for enforcement;

18 (3) liquid waste, including exclusive
19 authority to establish on-site liquid waste system fees that
20 are no more than the average charged by the contiguous states
21 to New Mexico for similar permits and services and to implement
22 and administer an inspection and permitting program for on-site
23 liquid waste systems;

24 (4) air quality management as provided in the
25 Air Quality Control Act;

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1 (5) radiation control and establishment of
2 license and registration and other related fees not to exceed
3 fees charged by the United States nuclear regulatory commission
4 for similar licenses as provided in the Radiation Protection
5 Act;

6 (6) noise control;

7 (7) nuisance abatement;

8 (8) vector control;

9 (9) occupational health and safety as provided
10 in the Occupational Health and Safety Act;

11 (10) sanitation of public swimming pools and
12 public baths;

13 (11) plumbing, drainage, ventilation and
14 sanitation of public buildings in the interest of public
15 health;

16 (12) medical radiation, health and safety
17 certification and standards for radiologic technologists as
18 provided in the Medical Imaging and Radiation Therapy Health
19 and Safety Act;

20 (13) hazardous wastes and underground storage
21 tanks as provided in the Hazardous Waste Act; ~~and~~

22 (14) solid waste as provided in the Solid
23 Waste Act; and

24 (15) transportation fuels as provided in the
25 Clean Fuel Standard Act.

