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FISCAL IMPACT REPORT

SPONSOR <u>Ortez/Stewart/Chandler/Duhigg/Hamblen</u>	LAST UPDATED <u>03/06/23</u>
SHORT TITLE <u>Clean Fuel Standards</u>	ORIGINAL DATE <u>02/20/23</u>
	BILL NUMBER <u>House Bill 426/aHENRC/aHGEIC</u>
	ANALYST <u>Sanchez</u>

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
No fiscal impact	Indeterminate but minimal	Indeterminate but substantial	Recurring	State Air Quality Permit Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$545.0	\$545.0	\$1,090.0	Recurring	NMED Operating Budget (4 FTE)
	No fiscal impact	\$1,290.0	Remainder from FY24	\$1,290.0	Nonrecurring	NMED Operating Budget (Contract Staff)
Total		\$1,835.0	At least \$545.0	At least \$2,380.0		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Department of Environment (NMED)

Department of Transportation (DOT)

Office of the Attorney General (NMAG)

SUMMARY

Synopsis of HGEIC Amendment

The House Government, Elections and Indian Affairs Committee amendments to House Bill 426 (HB426) strikes the word “may” and inserts the word “shall” into the section describing the trading of credits among regulated entities. The effect will be to require the development of such

mechanisms to allow for the monitoring and stabilization of these markets and enforcement of compliance and cost limits to consumers. The HGEIC amendments also strike the words “electric,” “credit,” and the phrase “transportation electrification infrastructure and projects” and replaces these with a new phrase that states “electrification infrastructure projects that support decarbonization of the transportation sector.” This change seems aimed simply at cleaning up the section to ensure it clearly explains the legislative intent of the section.

Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendments to House Bill 426 (HB426) add a definition for “transportation fuel” which specifies that the term is meant to encompass “electricity or a liquid or gaseous fuel that is blended, sold, supplied, used or offered for sale to power vehicles or equipment for on-road or off-road purposes.” None of the agencies providing analysis of the amended bill indicated that it would, in any way, change the fiscal impact.

Synopsis of Original Bill

House Bill 426 (HB426) proposes to amend several sub-sections of Section 74-1 NMSA 1978, also known as Environmental Improvement Act, to provide the Environmental Improvement Board with the statutory authority needed to draft and enforce a statewide clean transportation fuel standard (CTFS).

HB426 proposes amendments to Section 74-1-3 NMSA 1978 (Environmental Improvement – General Provisions – Definitions) to include definitions for “carbon intensity,” “disproportionately impacted communities,” and “fuel lifecycle.”

HB426 also proposes to amend Section 74-1-7, NMSA 1978 (Environmental Improvement – General Provisions – Department; duties) to add language specifying that the department enforces rules in accordance with section 1420 of the federal Safe Drinking Water Act of 1974, the Medical Imaging and Radiation Therapy Health and Safety Act, and carbon intensity of transportation fuels as provided in the Environmental Improvement Act. (Changes underlined)

Finally, HB426 proposes to amend Section 74-1-8, NMSA 1978 (Environmental Improvement – General Provisions – Board: duties), adding the promulgation of rules and standards for the carbon intensity of transportation fuels to the list of responsibilities of the Environmental Improvement Board (EIB). The amendment adds language requiring the EIB to convene an advisory committee to include stakeholders from various communities, industry sectors, and tribal nations to provide expertise and perspective to the Department of Environment regarding the drafting of a clean transportation fuels standard.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

House Bill 426 does not contain any appropriations for the development and implementation of a clean transportation fuel standard (CTFS) by the Environmental Improvement Board (EIB). NMED estimates that there will be recurring costs of approximately \$545 thousand to cover the salaries for three technical staff (3 FTE) and one legal staff positions (1 FTE) to develop draft

rules and guidance, conduct stakeholder and public outreach, and petition the board. The recurring costs will include the salaries listed above during the lead-up to the necessary public hearings and during the implementation of the rules once approved by the EIB. NMED's analysis makes reference to a \$3.5 million special appropriation which is currently included in the House Appropriations and Finance Committee Substitute for House Bill 2.

Also of note, House Bill 426 provides for the establishment of “permits and fees for regulated entities or credit generators, including fees assessed on credit transactions, to cover and pay for the costs of the department’s administration and enforcement of the program; provided that any fees for the permits are deposited in the state air quality permit fund.” Although analysis from NMED cites a January 2022 analysis which estimated implementing a CTFS could generate \$470 million in economic job investment in New Mexico and an additional \$240 in capital investment in production and manufacturing, the agency analysis did not estimate the amount of revenue that would be generated by permits and fees.

SIGNIFICANT ISSUES

Analysis from the Department of Environment indicated that over time, other states have seen a reduction in the cost of heavier fuels such as diesel of different blends. However, there was no estimate included in the agency’s analysis regarding the anticipated effect on fuel prices in New Mexico due to the implementation of a CTFS.

The Department of Transportation responded to a request for analysis by stating that could not accurately assess the fiscal or administrative impact to the agency until it saw the draft rules. The department’s response stated:

HB426 should have no fiscal or administrative impact on NMDOT in the near future. Until any rulemaking by the Environmental Improvement Board (EIB) is complete, it would be speculative to assess any further fiscal or administrative impact to NMDOT from implementing HB426. In the long term (10-20 years), some negative fiscal (tax revenue) and budgetary impacts are probable, particularly if Clean Fuel Standard goals prove technically difficult or expensive to meet. It is difficult at this time to evaluate how the rules and credits may impact overall fuel prices, or the relative price changes for particular types of transportation fuels (electric, gasoline, diesel, LPG, LNG, etc.). A trend of increased fuel efficiency and fuel cost is expected over the long term, even in the absence of this proposal, so the baseline trend already reflects concern about negative fiscal and budgetary impacts on NMDOT associated with transportation fuels. It is quite difficult to evaluate whether the provisions of this bill would make those fiscal challenges substantially greater or more immediate.

OTHER SUBSTANTIVE ISSUES

Analysis from the Office of the Attorney General included concerns regarding the definition of “disproportionately impacted communities” and suggested tweaking the language. (See below).

HB426 would insert a definition in the general provisions of the Environmental Improvement Act to define “disproportionately impacted communities” as “a community or populations of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the community or population and includes tribal communities,

communities of color, low-income rural communities, native people, people of color, women, immigrants, youth, formerly incarcerated people, lesbian, gay, bisexual, transgender and queer people and people with disabilities.” The use of the word “includes,” rather than “may include,” seems to indicate that enumerated categories are to be considered disproportionately impacted in all instances, rather than as a factual question with respect to the test set forward in the first part of the definition. In addition, the definition raises the question of whether each category of community must be represented in the advisory board to be established by proposed 74-1-8 (A)(15).

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