

LFC Requester: _____

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment _____
 Correction _____ Substitute _____

Date 2/10/25
 Bill No: HB 328

Sponsor: Reps Randall T. Pettigrew and Mark B. Murphy
Short Title: Repealing Provisions of Clean Transportation Fuel Standard
Agency Name and Code: EMNRD 521
Number: _____
Person Writing: Samantha Kao
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB 328 seeks to amend the Clean Transportation Fuel Standard Program by removing the definitions of "carbon intensity," "fuel life cycle," and "transportation fuel." Additionally, the bill would prohibit the Environmental Improvement Board from adopting or maintaining any rules related to a clean transportation fuel standard. This legislation also aims to repeal Section 74-1-18 NMSA 1978, as established in Laws 2024, Chapter 54, Section 4.

FISCAL IMPLICATIONS

The fiscal impact to the State includes an estimated \$470 million in foregone economic investment and \$240 million in capital investment related to production and manufacturing in New Mexico.¹ Without the implementation of the Clean Transportation Fuel Standard Program, the state will continue to face the negative health effects of air pollution, including a higher prevalence of respiratory conditions. The average annual cost of asthma care per person is approximately \$3,266.

SIGNIFICANT ISSUES

The New Mexico Environment Department (NMED) reports that the Clean Transportation Fuel Standard Program enables the state to significantly reduce greenhouse gas emissions from the transportation sector, moving New Mexico closer to meeting its climate targets of a 45% reduction by 2030 and achieving net-zero emissions by 2050. A 2022 study by Adelante Consulting estimates that the implementation of the Clean Transportation Fuel Standard Program could generate \$470 million in economic investment, create over 1,600 permanent jobs, and support an additional 2,300 construction jobs by 2030. Additionally, it could attract \$240 million in capital investment for production and manufacturing in New Mexico.¹

The Clean Transportation Fuel Standard Program will also drive private investment in alternative fuel production and distribution infrastructure, including facilities for ethanol, hydrogen fuel cells, and electric vehicle charging stations. These investments are essential not only to promote the adoption of clean vehicles but also to help New Mexico meet its climate pollution reduction goals and reduce local pollution from traditional fossil fuel combustion. The New Mexico Attorney General's Office reports that regulations like those proposed in the Clean Transportation Fuel Program have been legally challenged on grounds of federal preemption and the dormant commerce clause. However, these challenges have consistently been unsuccessful in court (e.g., *Am. Fuel & Petrochemical Manufacturers v. O'Keefe*, 903 F.3d 903; *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070).

Beyond economic and infrastructure concerns, public health would also be significantly impacted by this bill. According to a report from the American Lung Association, nearly 1 in 7 New Mexicans suffer from respiratory diseases such as asthma or COPD, which increases healthcare

¹ https://www.env.nm.gov/wp-content/uploads/2022/02/New_Mexico_Clean_Fuel_Standard_Economic_Impact_Analysis-Jan_26_2022.pdf

costs across the state. The National Institutes of Health estimates the average annual cost of asthma care per person at approximately \$3,266. Several counties, including Bernalillo, Doña Ana, and Eddy Counties, are currently exceeding federal and state thresholds for ground-level ozone, a pollutant that exacerbates respiratory conditions. The Clean Transportation Fuel Standard Program directly addresses these health concerns by reducing greenhouse gas emissions from transportation fuels, which also lowers associated criteria pollutants. This reduction would improve air quality, potentially increasing the number of days rated as “moderate” or “good” on the air quality index. Improved air quality would have direct health benefits for all New Mexicans, particularly vulnerable populations such as children, the elderly, and those with respiratory conditions.

The Clean Transportation Fuel Standard Program aligns with the Governor’s Executive Order 2019-003, which directs NMED and EMNRD to reduce statewide greenhouse gas emissions by at least 45% from 2005 levels by 2030. The program mandates a 20% reduction in the carbon intensity of transportation fuels by 2030, leading to a decrease of 16.2 million metric tons of carbon dioxide equivalent emissions. The Clean Transportation Fuel Standard Program alone will contribute 6% of the Governor’s target of a 45% emissions reduction by 2030. If the bill is effectively repealed by removing all language related to carbon intensity, the state will fail to achieve these critical emissions reductions.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The New Mexico Environment Department has already invested a year of work in developing the Clean Transportation Fuel Program, and this effort would become wasted taxpayer dollars if HB 328 passes. Additionally, there would likely be public confusion, as multiple public meetings have already been held regarding the new program.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The proposed amendment also conflicts with or undercuts the state’s Air Quality Control Act, which explicitly mandates the EIB “shall prevent or abate air pollution” and that it “shall ... adopt [and] promulgate ... rules and standards ... [to] prevent or abate air pollution.” (See, NMSA 1978, §§ 74-2-5 (A) and (B).) It also arguably conflicts with Section 72-4-5 (E) of the Air Quality Control Act which requires that “[a]ny rule adopted pursuant to this section shall be at least as stringent as federal law, if any, relating to control of motor vehicle emissions,” which clearly indicates a desire for the state’s control of motor vehicle emission to be *at least if not more stringent* than any similar federal regulations.

The proposed bill also would require the EIB to not enforce a rule it already has adopted and promulgated, 20.2.91 NMAC, New Motor Vehicle Emission Standards, in particular the sections adopting California vehicle emission standards and requirements, such as the “Zero-Emission Vehicle Requirements for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks” from Title 13, Section 1962.4 of the California Code of Regulations that is incorporated by reference into the rule.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, NMED will continue to uphold the existing law passed by the New Mexico legislature, which supports the state's efforts to reduce carbon intensity, meet its climate pollution reduction targets, provide stability for the business community, and protect the health of New Mexicans in the future.

AMENDMENTS