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## FISCAL IMPACT REPORT

**BILL NUMBER:** Senate Bill 18

**SHORT TITLE:** Clear Horizons & Emissions Codification

**SPONSOR:** Sens. Stewart and Charley/Rep. Ortez

**LAST UPDATE:** \_\_\_\_\_ **ORIGINAL DATE:** 1/26/2026 **ANALYST:** Davidson/Torres/  
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### REVENUE\* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Severance Tax, Royalties, other OGAS sources	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund, other state funds

Parentheses indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Multiple	No fiscal impact	At least \$17,000.0	At least \$17,000.0	At least \$34,000.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Public Regulation Commission

Environment Department

New Mexico Attorney General

Department of Transportation

Energy, Minerals, and Natural Resources Department

#### Agency or Agencies That Were Asked for Analysis but did not Respond

Department of Finance and Administration

Tax and Revenue Department

## SUMMARY

### Synopsis of Senate Bill 18

Senate Bill 18 (SB18) proposes significant statutory changes with the aim of reducing greenhouse gas emissions. The bill defines greenhouse gas emissions as the total net

anthropogenic emissions of greenhouse gases within the state, while also adding emissions from out-of-state production of electricity for use within the state. The bill also codifies statewide greenhouse gas emissions reductions, based on 2005 emission levels, setting them at:

- By 2030, a 45 percent reduction;
- By 2040, a 75 percent reduction;
- By 2050, a 100 percent reduction.

The bill outlines key provisions the Environmental Improvement Board (EIB) would be responsible for:

- Adopting a plan and rules to meet the statewide greenhouse gas emissions limits;
- Establishing monitoring requirements by 2027;
- Setting rules establishing limits on emission of greenhouse gases from stationary sources, which the bill defines as sources having the potential to emit 10,000 metric tons or more of greenhouse gas annually, and also to have these stationary emission rules apply to groups of two or more stationary sources that have the potential to emit less than 10,000 metric tons of greenhouse gas individually but collectively have the potential to emit 25,000 metric tons or more annually;
- Creating a certification process for mechanisms that offset emissions by the removal of greenhouse gases from the atmosphere while also quantifying the reduction of greenhouse gas from sources not subject to the new greenhouse gas reduction limits; and
- Setting a fee structure and schedule for the New Mexico Environment Department (NMED) and “the local board” for implementation of the new emission limits.

The bill also requires NMED to, in consultation with the Energy, Minerals and Natural Resources Department (EMNRD), the Department of Transportation (NMDOT), and other relevant entities, to publish a greenhouse gas emissions report every year by December 31. The bill sets new meeting requirements related to proposal of greenhouse gas emission targets, requiring EIB and the agency to determine which communities will be most affected by proposed actions. In addition, the department shall also provide to potentially impacted Native American nations, tribes, or pueblos estimates of impact from proposed actions.

The bill newly defines greenhouse gas intensity, stipulating it as “the ratio of emissions of one or more greenhouse gases per unit of activity, output, or product.”

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## **FISCAL IMPLICATIONS**

Proposed greenhouse gas emission reductions created by SB18 have the potential to impact the state’s revenue from severance taxes, royalties, and bonus payments on state trust land oil and gas leases.

Specifically, the delegation of authority to EIB in determining regulations makes it difficult to assess how emission reductions will be achieved and at what cost. Greenhouse gas emissions from the oil and gas industry have been declining, particularly in newer wells with improved emissions technology, but older, less productive wells are less economical to invest in to achieve

emission reduction targets. To the extent older wells are shut off to meet emissions targets, revenue losses will accumulate from the lost production value. Furthermore, it is unclear if all wells will be able to achieve the reductions necessary to meet the aggregate reduction goals and what actions could be taken to further force compliance.

Compliance could result in the loss of future drilling and production, further reducing state revenues. The delegation of regulatory authority combined with limited direction on implementation prevents this analysis from including a revenue estimate, which could have significant direct revenue losses to the general fund, severance tax permanent fund, the land grant permanent fund, the early childhood education and care fund, the behavioral health trust fund, the Medicaid trust fund, state capital outlay, and the reclamation fund, and indirect revenue losses through the gross receipts taxes, personal income taxes, corporate income taxes, and more. Local revenue sources could also be negatively impacted. [See *Legislating for Results: Supplemental Charts and Graphs, 2026*, page 13, for oil and gas revenue sources and uses.]

SB18 significantly increases the reporting and regulating role of NMED, potentially requiring significant increases in the staffing and recurring budget of NMED.

Analysis by NMED noted implementation could require the department to increase its personnel by 24 and funding by up to \$17 million. SB18 gives EIB the ability to create a fee structure that could supplement some of the implementation costs, a funding structure consistent with the Air Quality Bureau (AQB) and other NMED programs. Efforts to increase permit fees related to AQB operations have gone before the EIB before, though they were not adopted. NMED has signaled its intention to continue to petition the EIB to increase permit fees related to air quality.

Analysis from the New Mexico Attorney General (NMAG) notes the bill would require the agency to provide additional assistant to EIB because it adds new monitoring and reporting requirements for EIB to implement, thus increasing the role NMAG would play in aiding the board's operations.

Increased staff could potentially also be needed at the other agencies tasked with consulting with NMED on creating a greenhouse gas inventory and progress report every year. The report, which would require NMED to consult with EMNRD, the NMDOT, and "other relevant federal, state, local, and tribal entities," will contain, at a minimum:

- Greenhouse gas emissions baseline data for 2005;
- An inventory of all current statewide greenhouse gas emissions showing changes from baseline emissions;
- A projection of whether the state will meet the statewide greenhouse gas emissions limits;
- A list of actions that the state is taking, or is planning to take, to meet the statewide greenhouse gas emission limits and a schedule for those actions;
- A quantification and analysis of the projected greenhouse gas emissions reductions that could be achieved with each action;
- A quantification and analysis of any projected shortfalls in achieving the statewide greenhouse gas emissions targets; and
- Recommendations for further action, including revised regulations or legislation, to eliminate the shortfall, if any.

Reporting of this complexity and nature, even spread out among the three agencies or possibly more, would require indeterminate budget increases to accommodate. Further, the expansion of NMED's regulatory role and responsibility to curb greenhouse gas emissions statewide by 45 percent in 2030 would require significant expansion of NMED to be able to implement the bill. Expansion of this nature, which would begin only once EIB has set the requirements and plan, could impact the agency's ability to carry out its current statutory obligations, impeding performance and implementation at multiple levels of the agency.

## **SIGNIFICANT ISSUES**

New Mexico currently has the Climate Change Task Force chaired by representatives of NMED and EMNRD. Other agencies in the task force are NMDOT, the Economic Development Department, the State Land Office, and the Workforce Solutions Department.

The task force was created by executive order in 2019, with the executive order including greenhouse and oil production emissions targets and directives that mimic or closely resemble the targets and directives of SB18. Both the executive order and the bill call for 45 percent emissions reductions by 2030 compared to 2005 levels, require agencies to track the impacts of climate change and coalesce these practices and findings into a report (the executive order calls for a New Mexico Climate Strategy document while the bill calls for a greenhouse gas inventory and progress report that mirrors the goals of the Climate Strategy document), and call for state agencies to evaluate strategies that will reduce greenhouse gas pollution and emissions.

EMNRD notes, from analysis for legislation similar to SB18, while implementation of the executive order has resulted in reductions in emissions in the state, the most recent New Mexico Greenhouse Gas Emissions Inventory and Forecast published by NMED in 2024 found the state will not meet its emissions targets.

EMNRD notes the bills requirements to EIB and the evaluation process it must undertake would require the board to create a comprehensive tracking framework capable of capturing greenhouse gas reductions that occur outside formal regulatory requirements. This tracking would also require expanded coordination with the state's natural resources and natural resource adjacent agencies. All this further expands the substantial task the bill places within EIB.

The link between oil and gas production and negative health outcomes is well established. Two peer-reviewed studies in California found an association between oil and gas development and self-reported and physician-diagnosed asthma, reduced lung function, and self-reported acute respiratory symptoms (e.g., recent wheezing). Six studies in other oil and gas regions (Pennsylvania and Texas) reported an association between oil and gas development and asthma exacerbations, asthma hospitalizations, and respiratory symptoms.

Agency analysis from NMED for similar legislation notes the Air Quality Bureau (AQB) does not have jurisdiction in Bernalillo County, which could create implementation issues with SB18. Specifically, regulation and monitoring of Bernalillo County's air quality is under the authority of the Bernalillo County Air Quality Control Board. SB18 does, however, anticipate this bifurcation of air quality regulation, calling for EIB and the "local board" to adopt a plan and rules "sufficient to meet each of the statewide greenhouse gas emissions limits."

NMED analysis notes the use of "may" on page 14, line 15, creates potential for rulemaking

ambiguity and could provide nonspecific direction and authority to EIB and “obfuscate their responsibilities, making the board prone to longer and more deliberation.”

NMAG notes the state currently has the statutory authority to regulate greenhouse gas emissions through the Environmental Improvement Act and the Air Quality Control Act. NMAG also points to the already complex environmental regulation framework that exists, specifically between state and federal law. NMAG notes the bill would also engage with the “evolving interpretation of federal standards under the current administration, which amplifies the risk of federal preemption and regulatory conflicts.”

NMAG notes the bill could create new questions surrounding the state’s interaction with the Federal Power Act and in particular federal preemption (when federal law overrides or invalidates conflicting state or local laws). Another way NMAG defines federal preemption is when “federal law so occupies the field that state courts are prevented from asserting jurisdiction.”

NMAG cites Section 3 as an example of how the bill could create questions of federal preemption. Section 3 amends statute within the Air Quality Control Act to include a definition of statewide greenhouse gas emissions that encompasses total net anthropogenic emissions of greenhouse gases within the state and emissions from out-of-state production of electricity for use within the state. NMAG, regarding this specific definition of statewide greenhouse gas emissions, notes:

Federal law has delegated authority to the Federal Energy Regulatory Commission (FERC) to regulate the transmission and wholesale sale of electricity in interstate commerce. See 16 U.S.C. § 824. As a result, including out-of-state electricity production in the state’s accounting of greenhouse gas emissions may be viewed as an attempt to indirectly regulate out-of-state utilities and interstate energy markets, areas typically reserved for FERC and potentially preempted by federal law.

NMAG also notes new proposed federal changes to the Clean Air Act, in particular the potential removal of monitoring requirements for large industrial sources, could make the monitoring requirements contained in SB18 inconsistent with new federal standards and trigger preemptions challenges to the state’s new rules. A similar issue could also arise with the bills new regulation of stationary sources. NMAG notes the language in SB18 and the emission thresholds from stationary sources it proposes are lower than the standards in federal law but are also broader, resulting in SB18 tasking the state with regulating a larger number of emitting sources than federal law does and potentially overlapping or conflicting with existing compliance obligations.

Also, NMAG notes the determination of aggregated greenhouse gas emissions proposed in SB18 is not in line with aggregation practices in federal law:

[Federal regulation] employs a three-factor test to determine if two or more facilities should be aggregated for purposes of determining whether thresholds are met for greenhouse gas regulation. The factors are whether the building/facility/structures: (1) have the same industrial grouping; (2) are located on one property or on contiguous or adjacent properties; and (3) are under common control of the same person(s). See 40 CFR 51.166. This test requires the establishment of all three factors, whereas SB 18 only requires common ownership or control for aggregation purposes.

NMAG points to issues SB18 could create with the federal Commerce Clause, noting the

language adding emissions from out-of-state production of electricity for use within the state within the definition of state greenhouse gas emissions could be view as extraterritorial regulation. NMAG notes the Commerce Clause is the legal precedent created by Congress that acts as the primary constitutional foundation for federal regulatory authority over interstate economic activity. It also operates as protection against inconsistent legislation impacting the regulatory structure of one state and the jurisdiction of another. NMAG notes:

The Commerce Clause dictates that no state may force an out-of-state merchant to seek regulatory approval in one state before undertaking a transaction in another. Healy at pgs. 336-337. SB 18’s application to out-of-state production of electricity may be viewed as controlling or impacting the commercial decisions of companies that exist wholly outside New Mexico and seeking to regulate conduct in neighboring states, which would exceed the state’s authority under the Commerce Clause.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB18 is closely related to Senate Bill 4 from the 2025 legislative session, with differences in specificity and definitions.

## **TECHNICAL ISSUES**

NMED analysis notes the bill, as currently written, provides that both EIB and local boards have rulemaking and implementation responsibilities, which could potentially add conflict to policy outcomes between different agencies. Confusion over which board is adopting which plan and in which order has the potential to hinder the implementation of the bill. NMED notes clarity is needed on the order of adoption of the rules and framework.

Analysis from the Public Regulation Commission (PRC) notes the bill requires consideration of “other relevant state and federal laws, rules and enforceable requirements that contribute to reductions in greenhouse gas emissions,” language that creates the potential for a plan by EIB to be rejected and, thus, creating ambiguity around continued enforcement of the other relevant state and federal laws. PRC analysis further notes this potential process could be construed as limiting or impeding the jurisdiction of other regulatory entities responsible for enforcing those statutory requirements.

NMED analysis notes there are issues on page 2, line 11, of the bill. NMED recommends the bill’s definition of greenhouse gas “align with the definition used in the Clean Transportation Fuel Program rule (20.2.92 NMAC) approved by the EIB: ‘greenhouse gas’ means a gaseous compound that traps heat in the earth’s atmosphere, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, and sulfur hexafluoride but not including water vapor.”

EMNRD notes Section 2, Subsection B, Part 2, outlines how greenhouse gas emissions limits can be achieved but does not establish limits on the use of carbon offsets to reach the emissions limits in the bill.

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