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SENATE BILL 11

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

INTRODUCED BY

Mimi Stewart and Nathan P. Small

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 used for  
9 determining compliance with the clean fuel standard such that  
10 one credit is equal to one metric ton of carbon dioxide  
11 equivalent;

12 E. "department" means the department of  
13 environment;

14 F. "fuel lifecycle" means the aggregate of  
15 greenhouse gas emissions, including direct emissions and  
16 significant indirect emissions, such as significant emissions  
17 from indirect land use changes as determined by the board,  
18 produced in all stages of fuel and feedstock production,  
19 distribution and delivery and use of the finished fuel product  
20 by the consumer;

21 G. "fuel pathway" means a detailed description of  
22 all stages of production and uses for a transportation fuel,  
23 including feedstock generation or extraction, production,  
24 distribution and combustion of the fuel by the consumer that is  
25 used to calculate the fuel lifecycle of a transportation fuel;

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1           H. "greenhouse gas" means carbon dioxide, methane,  
2 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur  
3 hexafluoride;

4           I. "motor vehicle" means "motor vehicle" as defined  
5 in the Motor Vehicle Code;

6           J. "provider" means a person that produces in New  
7 Mexico or imports into New Mexico transportation fuel; and

8           K. "transportation fuel" means electricity or a  
9 liquid or gaseous fuel that is blended, sold, supplied, offered  
10 for sale or used for the propulsion of a motor vehicle, or that  
11 is intended for use in a motor vehicle, in New Mexico and that  
12 meets applicable standards, specifications and testing  
13 requirements for motor vehicle fuel quality.

14           SECTION 3. [NEW MATERIAL] CLEAN FUEL STANDARD--  
15 ESTABLISHED--RULEMAKING.--

16           A. The board shall adopt rules to implement the  
17 Clean Fuel Standard Act.

18           B. The Clean Fuel Standard Act shall apply to  
19 providers.

20           C. In adopting rules, the board shall take into  
21 consideration equivalent programs adopted by other states and  
22 may coordinate with other states to promote regional reductions  
23 in greenhouse gas emissions.

24           D. No later than twenty-four months after the  
25 effective date of the Clean Fuel Standard Act, the department

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1 shall petition the board to promulgate rules to implement the  
2 Clean Fuel Standard Act. The rules shall:

3 (1) establish the clean fuel standard based on  
4 a schedule for annually decreasing the carbon intensity of  
5 transportation fuels used in New Mexico. The schedule shall  
6 reduce the average amount of greenhouse gas emissions per unit  
7 of fuel energy by a minimum of ten percent below 2018 levels by  
8 2030 and by a minimum of twenty percent below 2018 levels by  
9 2040, with further reductions thereafter to be implemented  
10 based upon advances in technology as determined by the board;

11 (2) establish a process to determine carbon  
12 intensity values for transportation fuels;

13 (3) require the use of nationally or  
14 regionally recognized models or protocols for determining fuel  
15 lifecycle and indirect land use changes in establishing the  
16 carbon intensity value for transportation fuels;

17 (4) establish a process for providers to  
18 comply with the Clean Fuel Standard Act by obtaining and  
19 retiring credits;

20 (5) establish a mechanism for a person to  
21 generate credits, including persons involved in agricultural,  
22 aviation, chemical, dairy, energy, film, forestry,  
23 manufacturing, mining, oil and gas, waste management or  
24 wastewater treatment sectors;

25 (6) require the annual registration of

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1 providers and any person generating credits;

2 (7) require the assessment of annual  
3 registration fees for providers and any person generating  
4 credits sufficient to cover the reasonable costs of the  
5 department's administration and enforcement of the Clean Fuel  
6 Standard Act and implementation of rules. Fees collected  
7 pursuant to this paragraph shall be deposited in the clean fuel  
8 standard fund;

9 (8) require providers to demonstrate  
10 compliance with the clean fuel standard by balancing credits  
11 and deficits on an annual basis and submitting fuel pathway  
12 applications, fuel transactions and carbon intensity data to  
13 the department;

14 (9) establish a fair market for credit  
15 transactions that is administered by the department or a third  
16 party. The board shall adopt rules for market management,  
17 including transaction fees, a credit price cap or other  
18 mechanisms that enable credits to be traded or to be banked for  
19 future compliance periods and procedures for verifying the  
20 validity of credits and deficits generated under the Clean Fuel  
21 Standard Act;

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

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1 and

2 (11) establish requirements and an  
3 accreditation process for third-party verification, including  
4 acceptance of verification entities that are accredited by  
5 another state that adopts a low-carbon fuel standard and  
6 establishes a third-party verification program.

7 E. The department is responsible for the  
8 administration of the clean fuel standard and credits,  
9 including implementation and enforcement of the rules adopted  
10 by the board pursuant to the Clean Fuel Standard Act.

11 SECTION 4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--  
12 CREATED.--The "clean fuel standard fund" is created in the  
13 state treasury. The fund consists of fees collected from the  
14 regulation of transportation fuels pursuant to the Clean Fuel  
15 Standard Act. Money in the fund is appropriated to the  
16 department and shall be administered by the department for  
17 staffing and resources needed for administration and  
18 enforcement of rules pertaining to transportation fuels.  
19 Disbursements from the fund shall be by warrant drawn by the  
20 secretary of finance and administration pursuant to vouchers  
21 signed by the secretary of environment or the secretary of  
22 environment's designee. Any unexpended or unencumbered balance  
23 in the clean fuel standard fund remaining at the end of any  
24 fiscal year shall not revert to the general fund.

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

2 "74-1-8. BOARD--DUTIES.--

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

6 (1) food protection;

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

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

19 (4) air quality management as provided in the  
20 Air Quality Control Act;

21 (5) radiation control and establishment of  
22 license and registration and other related fees not to exceed  
23 fees charged by the United States nuclear regulatory commission  
24 for similar licenses as provided in the Radiation Protection  
25 Act;

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- 1 (6) noise control;
- 2 (7) nuisance abatement;
- 3 (8) vector control;
- 4 (9) occupational health and safety as provided  
5 in the Occupational Health and Safety Act;
- 6 (10) sanitation of public swimming pools and  
7 public baths;
- 8 (11) plumbing, drainage, ventilation and  
9 sanitation of public buildings in the interest of public  
10 health;
- 11 (12) medical radiation, health and safety  
12 certification and standards for radiologic technologists as  
13 provided in the Medical Imaging and Radiation Therapy Health  
14 and Safety Act;
- 15 (13) hazardous wastes and underground storage  
16 tanks as provided in the Hazardous Waste Act; ~~and~~
- 17 (14) solid waste as provided in the Solid  
18 Waste Act; and
- 19 (15) transportation fuels as provided in the  
20 Clean Fuel Standard Act.

21 B. Nothing in Subsection A of this section imposes  
22 requirements for the approval of subdivision plats in addition  
23 to those required elsewhere by law. Nothing in Subsection A of  
24 this section preempts the authority of any political  
25 subdivision to approve subdivision plats.

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C. Administrative penalties collected pursuant to Paragraph (2) of Subsection A of this section shall be deposited in the water conservation fund.

D. On-site liquid waste system fees shall be deposited in the environmental health fund.

E. Radiation license and registration and other related fees shall be deposited in the radiation protection fund."