

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/21

SPONSOR HENRC LAST UPDATED _____ HB 9/HENRCS

SHORT TITLE Climate Solutions Act SB _____

ANALYST Carswell/Wan

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
See Fiscal Implications				

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$4,834.2	\$7,169.9	\$31,173.9	\$43,178.0	Recurring	General Fund
		\$8,210.0	\$4,105.0	\$12,315.0	Recurring	Air Quality Permit Fund
		\$175.0	\$175.0	\$350.0	Recurring	State Road Fund
		\$2,643.0		\$2,643.0	Nonrecurring	General Fund
		\$150.0		\$150.0	Nonrecurring	State Road Fund
Total	\$4,834.2	\$18,347.9	\$35,453.9	\$58,636.0		

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 8

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

General Services Department (GSD)

Tourism Department (TD)

Economic Development Department (EDD)

House Bill 9/HENRCS – Page 2

Department of Cultural Affairs (DCA)
Energy, Minerals and Natural Resources Department (EMNRD)
State Land Office (SLO)
Office of the State Engineer (OSE)
Indian Affairs Department (IAD)
Early Childhood Education and Care Department (ECECD)
Workforce Solutions Department (WSD)
Environment Department (ED)
Higher Education Department (HED)
Department of Transportation (NMDOT)
Taxation and Revenue Department (TRD)
Department of Agriculture (NMDA)

No Response Received

Public Education Department (PED)
State Investment Council (SIC)

SUMMARY

Synopsis of Bill

The House Energy and Natural Resources Committee Substitute for House Bill 9 would enact the Climate Solutions Act, which establishes a climate leadership council, deadlines for the state to achieve specific reductions in greenhouse gas emissions (GHGE), requirements for state agencies to achieve GHGE reductions, and a number of definitions related to climate, economic development, and socioeconomic equity.

Sections 2 and 11: Creating New and Amending Existing Definitions

- New terms defined by and used throughout HB9/HENRCS:
 - Climate solutions,
 - Disproportionately impacted community,
 - Economic inclusion,
 - Greenhouse gas,
 - High-road employment,
 - Mitigation,
 - Net-zero emissions,
 - Resilience,
 - Risk,
 - Statewide greenhouse gas emissions,
 - Statewide strategy,
 - Sustainable economy.
- HB9/HENRCS amends the definition of “source” found in Section 74-2-2 NMSA 1978 (the Air Quality Control Act) from “a structure, building, equipment, facility, installation or operation that emits or may emit an air contaminant” to “a structure, building, equipment, facility, installation or operation at, from or by reason of which an air contaminant is emitted.”

Sections 4, 5, and 8: Climate Leadership Council and Economic Inclusion Subgroup

Section 4 of HB9/HENRCS creates a climate leadership council. The Climate Leadership Council would be administratively attached to the Energy, Minerals and Natural Resources Department (EMNRD) and consist of the secretaries of 11 cabinet departments, plus any additional cabinet secretaries appointed by the governor, as voting members. The council would also include advisory members from the State Land Office (SLO), tribal and local governments, disproportionately impacted communities, and members who have areas of specific expertise, who represent business sectors that may be affected by the climate solutions proposed, and who represent relevant business sectors that may be involved in implementing climate solutions. The council is to meet at least every six months to carry out the provisions of the bill.

Duties of the Council

- Develop a statewide strategy and specific state agency implementation recommendations for the bill’s emissions reduction targets and policy goals. The strategy must include a statewide plan that prioritizes the reduction of impacts on disproportionately impacted communities and includes:
 - Timelines for implementation;
 - Performance metrics;
 - Budgets;
 - Specific recommended climate solutions and the state agencies that have committed to developing rules, policies, programs or partnerships to implement the climate solutions; and
 - Recommended legislative changes to further resilience, mitigation, diversification, and inclusion.
- Provide recommendations and set priorities for expenditures from the clean energy grants fund when funds are available, with an emphasis on disproportionately impacted communities, equity, and expanding a sustainable economy;
- Submit an annual report on the progress made toward achieving statewide GHGE reductions, legislative changes needed to implement the statewide strategy or identified climate solutions, and other recommendations to the governor and appropriate interim legislative committees no later than September 15 each year beginning 2021.

The Economic Inclusion Subgroup of the council created by Section 8:

- Is co-chaired by the secretaries of Economic Development and Workforce Solutions;
- Has voting membership to consist of one representative each from the Economic Development Department (EDD), Workforce Solutions Department (WSD), Department of Finance and Administration (DFA), Taxation and Revenue Department (TRD), General Services Department (GSD), Higher Education Department (HED), Public Education Department (PED), State Investment Council (SIC), and Indian Affairs Department (IAD);
- Must include eight advisory members appointed by the council co-chairs representing SLO, tribal governments and organizations, local governments, disproportionately impacted communities or organizations working with such communities, organizations with relevant expertise, and industry sectors involved in achieving the goals of the bill;
- Is tasked with developing an economic inclusion strategic plan for implementation of the council’s proposed climate solutions and the recommendations in the New Mexico Clean Energy Workforce Development Study commissioned by WSD and to expand economic inclusion and development in the attainment of net-zero emissions by 2050. HB9/HENRCS

lays out specific requirements for the strategic plan;

- Must submit an annual report on progress made in implementing the recommendations of the aforementioned workforce development study, legislative changes needed to implement the economic inclusion plan, and other recommendations to the governor and appropriate interim legislative committees no later than September 15 each year beginning 2021.

Section 3: Statewide Greenhouse Gas Emissions Reductions and Job Development

- Requires New Mexico to reduce statewide GHGE by least 50 percent below 2005 levels by 2030 and achieve net-zero emissions by 2050;
- Mandates a 60 percent reduction, relative to 2005 levels, in emissions of methane, carbon dioxide, and volatile organic compounds from the oil and gas sector by 2030; and
- Requires the state to create economic inclusion opportunities by implementing the recommendations contained in the study commissioned by the Workforce Solutions Department and by expanding development of opportunities for workers, prioritizing disproportionately impacted communities and historically disadvantaged communities.

Sections 6 and 9: State Agency Rulemaking Mandates

- Require state agencies or rulemaking bodies associated with state agencies to identify the climate solutions developed by the council that pertain to the agency’s jurisdiction and develop rules, policies, programs, or partnerships to implement those climate solutions by September 30, 2022;
 - Includes a number of guidelines and requirements for agencies and rulemaking bodies to follow in developing the rules and policies;
- Place NMED in charge of ensuring the state attains quantifiable, enforceable reductions in GHGE to meet the statewide emissions reductions established in Section 3 of the bill; NMED is directed to, within its statutory authority, address any deficit in achieving the required emissions reductions statewide via rules adopted by the Environmental Improvement Board (EIB) that establish protocols for NMED to:
 - Track all statewide greenhouse gas and air pollutant emissions;
 - Quantify emissions from fuels extracted and exported from New Mexico;
 - Track reductions of emissions of greenhouse gases and other harmful pollutants that have been achieved by climate solutions implemented by state agencies;
 - Track the impacts of current emissions of air pollutants on disproportionately impacted communities (as defined in Section 2 of HB9/HENRCS); and
 - Certify the state is on a consistently declining emissions reduction pathway.
- Specify that EIB protocols shall also require state agencies, on a consistent and timely basis, to report the emissions impact of the agency’s rules, policies, programs, and partnerships to the council.
- Require GSD to adopt procurement rules for climate solutions projects to ensure all New Mexico workers, especially in disproportionately impacted communities, have opportunities to access the jobs created by the implementation of climate solutions; identify ways to ensure that all New Mexicans have an opportunity to participate in governmental procurements for climate solutions projects; and consider the use of incentives to achieve inclusion of all interested New Mexicans;
- Require WSD to adopt rules for climate solutions projects to ensure all New Mexico

workers have opportunities to access jobs created by the implementation of climate solutions, with priority given to disproportionately impacted communities; includes developing training and registered apprenticeship opportunities for all New Mexicans interested in jobs created in the pursuit of GHGE reductions and consideration of the use of incentives to achieve inclusion for all New Mexicans;

Section 10: Clean Energy Grants Program

Amends Section 71-7-6 NMSA 1978 by:

- Directing the council to provide recommendations to the EMNRD secretary and set priorities for expenditures from the existing clean energy grants fund, pending funding availability; and
- Adding the following to the list of factors that may be considered by EMNRD when awarding grants:
 - The “extent to which the project will improve or expand access to high-road employment for disproportionately impacted communities, as defined in the Climate Solutions Act.”

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

Revenue Impact

Although the GHGE reduction targets established by HB9/HENRCS would likely affect New Mexico’s oil and gas sector and, consequently, state revenues, calculation of an estimated revenue impact would require additional information and further analysis. Similarly, the economic effects and associated state revenue impact of the bill’s economic development initiatives could not be evaluated for this analysis. The Taxation and Revenue Department (TRD) did not provide an estimated revenue impact, only saying that the potential impact would depend on the recommendations of the Climate Leadership Council and resulting actions taken.

Economic Development Department

According to EDD, the council subgroup’s mandate in HB9/HENRCS mirrors efforts to expand and diversify the state’s economy and use the state procurement process to support high-wage jobs, which the agency is already engaged in. However, new requirements created by the bill will have fiscal impacts.

EDD states that to fulfill its responsibilities under HB9/HENRCS, specifically related to the sustainable economic development subgroup, the agency will likely need \$15 million of recurring funds beginning in FY23 to expand existing programs, such as the Local Economic Development Act (LEDA) and the job training incentive program (JTIP). Specifically, EDD would use LEDA and JTIP to provide economic incentives for job creation and training workers in new skill sets to transition the state to a “sustainable, green economy.” The agency deems this level of ongoing investment necessary to reach the long-term targets set by the bill, such as expanding “economic inclusion and development in the equitable attainment of net-zero emissions levels by 2050.”

The bill’s climate solutions rulemaking and policy development requirements – which include

making consistent progress on GHGE reductions, providing data and other tools to communities to plan and implement strategies to foster climate resilience, and coordinating with community, industry, and other state agency partners – is estimated to cost EDD an additional \$5 million on a recurring basis.

EDD also anticipates nonrecurring costs of \$300 thousand in FY22 to create the sustainable economic development subgroup strategy, based on costs associated with the agency’s current strategic plan.

Environment Department

NMED reports it would need at least 22 FTE at an annual cost of \$3.5 million to accomplish the tasks and policy changes identified in HB9/HENRCS, beginning in FY22. NMED would also require ongoing contractual support at an annual cost of \$5 million. In its analysis, the agency indicates these expenditures would be supported by the air quality permit fund, which had an FY20 ending balance of \$8.1 million.

However, FY20 revenue to that fund was \$5.7 million, and \$2.9 million was used to support air quality programs. While the currently high fund balance could support HB9/HENRCS related expenditures in FY22 if revenues do not decrease significantly, this revenue level could not support \$8.2 million in additional annual expenditures in future years. Therefore, there would be some general fund impact in FY23 and beyond, unless NMED begins to generate substantially more air quality permit revenue. NMED estimated an additional recurring cost to the general fund of \$300 thousand beginning in FY22.

Energy, Minerals and Natural Resources Department

EMNRD estimates its total recurring costs associated with implementing HB9/HENRCS will be \$4.5 million to \$4.6 million, accounting for minor annual adjustments to employee salaries and benefits. The agency also reports an expected nonrecurring cost of \$343 thousand associated with one-time purchases and suggests an appropriation of \$2 million from the general fund to the clean energy grants fund to disburse grants through that program, which currently has no funding.

EMNRD provided a detailed breakdown of the additional resources the agency believes it would need in three separate programs to fulfill the requirements of HB9/HENRCS.

In Program Support, EMNRD would request

- 17 FTE at an annual cost of \$1.5 million, specifically
 - 2 FTE in the Office of the Secretary to facilitate and manage the Climate Leadership Council, performing tasks such as setting up open meetings, administering per diem and operational needs of the council, and assisting in the responses to media inquiries and public record requests;
 - 7 FTE in the Office of the General Counsel to facilitate the rulemaking, litigation, legal determination, and policy implementation efforts required to facilitate the programmatic requirements set forth in HB9/HENRCS;
 - 4 FTE in the Information Technology Office to develop and maintain all required data collection systems for GHGE reductions; and
 - 4 FTE in the Administrative Services Division to ensure that all procurement and financial processes are followed under state rules and regulations;

House Bill 9/HENRCS – Page 7

- \$410 thousand recurring for operating costs such as travel, training, supplies, subscriptions and dues, and annual software and hardware licensing; and
- \$343 thousand nonrecurring for office equipment and IT infrastructure purchases.

In the Energy Conservation and Management Division, EMNRD would request

- 6 FTE (five new and one term position converted to permanent) at an annual cost of \$446.4 thousand to \$475.7 thousand, specifically
 - 3 FTE to implement policies, programs, and partnerships per the requirements of Sections 7A and 7B of HB9/HENRCS;
 - 2 FTE to manage the clean energy grants program; and
 - 1 FTE to establish the current term position of resilience coordinator as a permanent position beginning in FY23;
- \$300 thousand in recurring costs for contractual services, supporting analysis and production of the statewide strategy and its reports; and
- \$2 million nonrecurring appropriation to the clean energy grants fund.

In the Oil Conservation Division, EMNRD would request

- 22 FTE at an annual cost of \$2.2 million, specifically
 - 5 FTE that would be environmental specialists,
 - 3 FTE that would be petroleum specialists,
 - 3 FTE that would be administrative compliance staff,
 - 10 FTE that would be compliance officers, and
 - 1 FTE to provide division-specific support on the substantial administrative and clerical assistance to the climate leadership council; and
- \$300 thousand recurring for operating costs, such as vehicles, office space, and IT equipment.

Workforce Solutions Department

WSD anticipates a need to increase staffing to develop a sustainable development strategic plan that includes implementation of the clean energy workforce development study, as well as the rules and programs for the inclusion of New Mexicans in jobs created through the reduction of GHGE. WSD estimates it will need \$299.8 thousand between FY22-23 for at least 1 FTE to manage these tasks. The agency also reports a potential need for additional staff and resources to reach the bill's deadlines in September 2021.

Agencies with Estimated Recurring Operating Budget Impacts of \$200 thousand or Less

The Department of Agriculture (NMDA) reports additional staff and resources will be necessary to meet the requirements set forth in HB9/HENRCS. Currently, NMDA participates in the Climate Change Task Force on the Natural and Working Lands Climate Action Team. NMDA says the agency's work on this team requires approximately 2.5 FTE at a cost of at least \$200 thousand per year. The agency expects the work associated with HB9/HENRCS will be more extensive and require additional staff time compared with the work related to the Climate Change Task Force.

The Tourism Department (NMTD) reports it will likely need 1 FTE at an annual cost of \$183.3 thousand to provide outreach, compliance, data reporting, and technical assistance, plus nonrecurring funding of \$145.3 thousand in FY22 for costs related to first-year implementation of

the bill's provisions, such as IT infrastructure needs. The agency mentioned the possibility that the FTE needed to implement HB9/HENRCS could be a temporary position.

The Department of Transportation (NMDOT) submitted an estimated operating budget impact of \$175 thousand, recurring, from the state road fund for 1 FTE to provide outreach, compliance, data reporting, and technical assistance. The agency also expects nonrecurring funds of \$150 thousand would be needed in FY22 for costs related to first-year implementation of the bill's provisions, such as IT infrastructure. However, NMDOT expects significant additional costs related to meeting the GHGE reduction targets, incorporating environmental justice impacts in the agency's transportation planning and analysis, and evaluating the climate impact on transportation projects. According to the agency, these factors "will likely further increase the focus on maintenance ... [and] public transit, and limit expansion of the highway network. Due to the high cost of highway and capacity expansion, as well as maintenance, this may lead to cost savings in the long run."

NMDOT also notes that attempting to reduce vehicle miles traveled to reduce transportation-related emissions may involve road user charges, which could potentially raise revenue and offset projected losses in gas tax revenue that will accompany the adoption of alternative fuel or electric vehicles.

The Office of the State Engineer (OSE) states technical and legal staff time will be required to complete the rulemaking requirements, costing about \$150 thousand between FY22-23.

IAD reports that implementing HB9/HENRCS would require additional staff time and resources beyond the agency's two policy analysts, likely necessitating the creation of a new FTE or hiring a contractor. IAD did not provide a cost estimate but LFC staff assume an annual cost of \$50 thousand for FY22-23 in the operating budget impact table above, in line with estimates from other agencies.

GSD estimates the rulemaking requirements imposed on the agency will necessitate the addition of 1 FTE at an annual cost of \$50 thousand to draft procurements and rules for climate solutions, including the targeting of employment in disproportionately impacted communities.

HED expects the new functions and duties HB9/HENRCS creates for the agency to increase administrative costs but would need to complete further review to determine the financial impact. HED reports additional FTE in its Capital Projects Division may be necessary to develop, implement, and manage the requirements of HB9/HENRCS, but no FTE or cost amounts are provided. Potential costs to HED are not included in the total estimated operating budget impact due to this lack of data.

The agency notes that most higher education institutions measuring their sustainability performance procure subscriptions or memberships to an organization that provides resources to assist institutions in becoming more sustainable, such as the Association for the Advancement of Sustainability in Higher Education. The cost of a membership in such an organization can range from \$825 to \$5,000 per year and the cost of meeting the sustainability commitments required of members, such as creating and implementing climate action plans, would vary widely among schools and over time, according to HED. Without complete information on the potential fiscal impact of HB9/HENRCS on higher education institutions, no cost estimates were included in the estimated operating budget impact table above.

SLO reports participation in the council may result in minimal administrative costs but did not provide an estimate. It is assumed these minimal costs could be absorbed by the agency's operating budget, which is supported by other state funds.

Other Considerations

The Department of Cultural Affairs (DCA) submitted an analysis and operating budget impact estimate for achieving a 50 percent reduction in GHGE associated with agency facilities by 2030 and net-zero emissions by 2050, including identifying the agency's 2005 GHGE and developing an energy efficiency and renewable energy proposal to meet the reduction goals. DCA's estimated cost is \$45 million between FY22-51 or about \$1.5 million per year in additional funding needs.

Public members of the council or subgroup established by HB9/HENRCS may receive per-diem and mileage reimbursement in accordance with Sections 10-8-1 through 10-8-8 NMSA 1978 (the Per Diem and Mileage Act). Mileage costs would vary widely and are impossible to estimate. Based on the rate of \$95 per meeting day for non-salaried public officers, per diem would have a minimal fiscal impact, likely less than \$10 thousand annually.

SIGNIFICANT ISSUES

According to the 2018 National Climate Assessment,¹ the effects of climate change are already evident in the southwest region of the United States, including in New Mexico. The federal report found that temperatures increased across the region from 1901 to 2016 and contributed to water scarcity, increased wildfire activity, stressed agricultural systems, and episodes of extreme heat that endangered human health. Rising temperatures and increased aridity are trends that are expected to continue with significant consequences for the environment, economy, and human communities. A climate risk assessment for the Upper Rio Grande Basin by the U.S. Bureau of Reclamation² concluded that average temperatures in the basin could rise by an additional 4 to 6 degrees Fahrenheit by the end of the century, with native flows in the Rio Grande decreasing by approximately one-third. The severity of such impacts, however, could be reduced by curbing GHGE.

HB9/HENRCS would codify into law requirements to reduce GHGE across New Mexico's economy, with a target of a 50 percent reduction below 2005 levels by 2030 and net-zero emissions by 2050. Additionally, the bill specifically mandates a 60 percent reduction, relative to 2005 levels, in emissions of methane, carbon dioxide, and volatile organic compounds from the oil and gas sector by 2030. These targets are more aggressive than those in Executive Order 2019-003 Addressing Climate Change and Energy Waste Prevention, which established a goal of reducing GHGE in the state by at least 45 percent by 2030. Analysis of HB9/HENRCS by the Energy, Minerals and Natural Resources Department notes the trajectory of the bill's emissions targets "is in line with scientific consensus that decarbonization by mid-century is necessary to limit warming to 1.5 degrees Celsius and thereby reduce the negative impacts of climate change worldwide."

HB9/HENRCS creates the Climate Leadership Council, which is administratively attached to EMNRD, is co-chaired by the secretaries of EMNRD and NMED, and includes 11 cabinet secretaries as voting members plus advisory members. The council would meet quarterly and

¹ <https://nca2018.globalchange.gov/chapter/25/>

² <https://www.usbr.gov/watersmart/baseline/docs/urgiamainreport.pdf>

would develop a statewide strategy to prepare for climate change, meet the emissions reduction mandates, advance climate mitigation and resiliency, and identify other climate solutions. HB9/HENRCS also requires all state agencies to develop climate solutions within each agency's jurisdiction and to develop rules or policies to implement those solutions.

The economic impacts of significant and rapid cuts in GHGE are likely to be substantial but will ultimately depend on how the emissions reductions are achieved, which is not specified in the bill. However, it is reasonable to assume such emissions cuts will require a reduction of activity in traditional energy sectors, particularly oil and gas, with a subsequent loss of jobs and state revenues from that sector. Though HB9/HENRCS does not address potential impacts to state revenues, it establishes an Economic Inclusion Subgroup to be co-chaired by the EDD and WSD secretaries. The subgroup is to develop a strategic plan for implementing the recommendations of a recent study commissioned by WSD on developing the state's clean energy workforce.

Additionally, HB9/HENRCS includes a requirement for WSD to promulgate rules for climate solutions projects that ensure access to jobs for all, but with a particular emphasis on disproportionately impacted communities. Workers displaced by the transition to a low-carbon economy may be eligible for unemployment insurance, job search assistance, job training, and apprenticeship opportunities through WSD. However, analysis by the General Services Department notes the clean energy workforce study underscored "the fundamental need for education of the workers in the impacts areas that currently does not exist." Training and education will thus be required before many workers can be employed in alternative industries.

TRD notes that research has found climate change has disproportionate social, economic, health, and environmental impacts on people of color and people who have low incomes.³ These communities have been especially affected by the health consequences of living and working in or near heavily polluted environments. Furthermore, individuals whose options for reacting to climate change impacts are restricted by their income are more vulnerable to its effects. TRD provides that HB9/HENRCS's requirements to focus economic development and environmental justice efforts on disproportionately impacted communities "is crucial to ensure these populations receive the necessary support."

PERFORMANCE IMPLICATIONS

HB9/HENRCS would support NMED's performance on the metric "percent of days with good or moderate air quality index" by reducing GHGE.

ADMINISTRATIVE IMPLICATIONS

As discussed in the "Fiscal Implications" section, most of the agencies assigned responsibilities by HB9/HENRCS reported a need for additional funding and staff to be able to implement the bill's provisions and meet its environmental and economic development targets. However, some agencies also expressed concerns about meeting certain deadlines and administering other requirements established by the bill, irrespective of resource constraints.

NMED points out the mechanism for the agency to ensure emissions reductions are achieved

³ Frosch, R.M., Pastor, M., Sadd, J., Shonkoff, S. "The Climate Gap: Inequalities in How Climate Change Hurts Americans & How to Close the Gap." May, 2009. University of Southern California.

across all state agencies is not clear, and because there is no authority in current law to enforce against another agency's statutory requirements, the agency questions whether this would even be legal. If it is, developing a mechanism by which to enforce HB9/HENRCS's provisions will itself require staff time.

NMED is also concerned that HB9/HENRCS mandates that "the EIB adopt rules that go beyond the apparent intent of a GHG reduction strategy." The agency claims the requirements to track "air pollutant emissions" and "other harmful pollutants" beyond greenhouse gases and to quantify emissions from fuels extracted and exported from New Mexico are vague to the point of being impossible to comply with.

According to NMED, HB9/HENRCS's amendment to the definition of "source" under the Air Quality Control Act would create serious administrative complications. The agency proposes removing this change from the bill, discussed in the "Amendments" section below.

To regulate greenhouse gases and volatile organic compounds as mandated by HB9/HENRCS, the Legislature must first amend existing statute (see "Conflict, Duplication, Companionship, Relationship," below) to enable the EIB to adopt new rules. This introduces another rulemaking process NMED must engage in that is not mentioned in HB9/HENRCS but would be necessary for its implementation.

Both NMED and EMNRD argue that Section 7 establishes unrealistic timeframes for agencies to initiate a rulemaking process, which would involve significant time and effort to first develop proposed rules, then petition the relevant rulemaking bodies to consider the new rules. According to the agencies, the process would likely take one to two years after the council completes its climate solutions strategy, which the rules must be based on, making achievement of the bill's September 2022 deadline impossible. For comparison, NMED and EMNRD spent more than a year engaging the public, convening stakeholders and experts, producing research documents, and developing rules on methane and volatile organic compound emissions before the agencies petitioned the relevant boards with proposed rules.

NMED and EMNRD also expressed doubts about the ability of the council to meet the September 15, 2021, deadline to produce an annual report on the progress made toward achieving statewide GHGE reductions, since this deadline is only 75 days after the bill becomes effective.

WSD expects the development and enforcement of rules that ensure access to clean jobs for all New Mexicans will take significant time and effort and is also concerned about the timeline set forth in HB9/HENRCS. WSD further notes that workers displaced because of climate solutions projects may be eligible for unemployment insurance benefits, job search assistance, and job training through programs administered by the agency, thus increasing workload.

GSD points out HB9/HENRCS does not specify how the agency is to competitively issue procurements under the Procurement Code while prioritizing historically disadvantaged communities for jobs related to climate solutions projects. According to GSD, no existing provisions of the Procurement Code provide for limiting or focusing solicitations to historically disadvantaged communities. This presents an administrative challenge for the agency and may require changes either to the Procurement Code or HB9/HENRCS.

GSD also notes that a mechanism for tracking employment of historically disadvantaged

communities would need to be established. The agency suggests, once the targeted workers are identified, companies and contractors could be required to report the number of workers from historically disadvantaged communities they employ. Such a requirement would need to be established for the state to get data on the number of targeted employees in the workforce. GSD points out that certification or verification schemes are not outlined in the bill and will, therefore, need to be developed by rule.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relationship to Senate Bill 8: Under current law, the EIB does not have authority to adopt regulations limiting methane, carbon dioxide, or volatile organic compounds in the manner described by HB9/HENRCS. For NMED to enforce statewide GHGE reductions as HB9/HENRCS directs, SB8 – which removes stringency limits from the state Air Quality Control Act – would also need to be enacted.

OTHER SUBSTANTIVE ISSUES

With national policy priorities shifting under the new presidential administration, federal grant opportunities may become available to states pursuing the types of climate change responses proposed by HB9/HENRCS. NMED notes enactment of this legislation may position New Mexico to receive additional federal funding to help implement its sustainability goals.

AMENDMENTS

NMED recommends striking “volatile organic compound” from Section 6, Subsection B. Volatile organic compounds are not a regulated greenhouse gas under federal standards and, according to the agency, should not be included in HB9/HENRCS. NMED also recommends striking the proposed revision to the definition of “source” in Section 9 and retaining the current definition. The agency states the bill’s amended definition “creates serious complications for NMED to implement. The current definition is clear, concise, and well understood by NMED and the regulated community. The proposed revision is vague, unclear as to its intent, and would create unnecessary confusion for NMED and the regulated community.”

SLO suggested including a representative from the agency in the voting membership of the economic subgroup due to “the role the State Land Office plays with respect to economic activities across the state, such as industrial parks, film, renewable energy, etc.”

CW/CC/sb