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HOUSE BILL 6

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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AN ACT

RELATING TO CLIMATE; ENACTING THE CLEAN FUTURE ACT;
ESTABLISHING GREENHOUSE GAS EMISSIONS LIMITS; REQUIRING
REPORTING; PROVIDING POWERS AND DUTIES; ENACTING NEW SECTIONS
OF THE AIR QUALITY CONTROL ACT; DIRECTING THE ENVIRONMENTAL
IMPROVEMENT BOARD TO ADOPT RULES TO REDUCE GREENHOUSE GAS
EMISSIONS; DIRECTING THE ASSESSMENT OF FEES; CREATING A 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 5 of this act may be cited as the "Clean Future Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Clean Future Act:

A. "direct emissions" means greenhouse gas
emissions from sectors or sources that are owned or operated,

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1 in whole or in part, by any person and includes electricity
2 generation, both imported and produced in-state; transportation
3 fuels and heating fuels combusted in New Mexico; buildings,
4 structures and other distribution systems; residential,
5 commercial, institutional and industrial waste management; and
6 agricultural, silvicultural and other manufacturing processes;

7 B. "disproportionately impacted communities" means
8 disadvantaged communities or communities or populations of
9 people for which multiple burdens, including environmental and
10 socioeconomic stressors, inequity, poverty, high unemployment,
11 pollution or discrimination, may act to persistently and
12 negatively affect the health, well-being and environment of the
13 communities or populations;

14 C. "greenhouse gas" means gaseous compounds that
15 absorb infrared radiation emitted from the earth's surface and
16 trap heat in the earth's atmosphere, including carbon dioxide,
17 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
18 nitrogen trifluoride and sulfur hexafluoride, but not including
19 water vapor;

20 D. "net-zero emissions" means allowable direct
21 emissions of greenhouse gases are fully offset;

22 E. "offset" means a quantifiable, enforceable,
23 additional, permanent and verifiable greenhouse gases reduction
24 or sequestration by biological, chemical or geological means
25 from a source or entity that is not otherwise subject to

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1 mandatory greenhouse gas emission reduction requirements of the
2 same amount, which reduction or sequestration is measured in
3 terms of metric tons of carbon dioxide equivalent; and

4 F. "state entity" means a cabinet department of the
5 executive branch of state government, the regulation and
6 licensing department, the state land office, the public
7 regulation commission, the New Mexico department of
8 agriculture, the board of regents of the university of New
9 Mexico and the board of regents of New Mexico state university.

10 SECTION 3. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS
11 LIMITS--ESTABLISHED.--Emissions of greenhouse gases in New
12 Mexico shall be limited as follows:

13 A. by 2030, statewide direct emissions of
14 greenhouse gases shall not exceed fifty percent of 2005 levels;
15 and

16 B. by 2050, total statewide greenhouse gas
17 emissions shall achieve at least net-zero emissions; provided
18 that total statewide direct emissions of greenhouse gases shall
19 not exceed ten percent of 2005 levels in 2050 or any subsequent
20 year.

21 SECTION 4. [NEW MATERIAL] REPORTING--DETERMINATION OF
22 2005 LEVELS.--

23 A. Annually, by April 15, beginning the year after
24 the enactment of the Clean Future Act, each state entity shall
25 provide to the department of environment and the energy,

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1 minerals and natural resources department information on:

2 (1) the qualitative and quantitative impacts
3 of climate change on the state entity's programs and operations
4 and, to the extent known, on disproportionately impacted
5 communities;

6 (2) the ways in which the state entity is able
7 to integrate climate change adaptation and mitigation practices
8 into its programs or operations;

9 (3) the current and projected future direct
10 emissions of greenhouse gases, to the extent known, from
11 sources or sectors within the state entity's regulatory
12 jurisdiction and the progress being made toward meeting the
13 greenhouse gas emissions limits established in Section 3 of the
14 Clean Future Act; and

15 (4) any additional resources, statutory or
16 regulatory authority or programs needed by the state entity to
17 reduce direct emissions of greenhouse gases from sources or
18 sectors within the state entity's regulatory jurisdiction to
19 meet the greenhouse gas emissions limits established in Section
20 3 of the Clean Future Act.

21 B. Annually, by July 1, beginning the year after
22 the enactment of the Clean Future Act, the department of
23 environment and the energy, minerals and natural resources
24 department shall jointly publish a report on the state's
25 progress toward meeting the greenhouse gas emissions limits

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1 established in Section 3 of the Clean Future Act. The first
2 report published shall determine the 2005 levels of statewide
3 direct emissions of greenhouse gases. Additionally, each
4 annual report shall:

5 (1) prioritize coordination with and
6 consideration of environmental and economic progress for, and
7 the avoidance of impacts to, disproportionately impacted
8 communities;

9 (2) contain an inventory of all statewide
10 greenhouse gas emissions based on best available data and
11 information and the progress being made toward achieving the
12 greenhouse gas emissions limits. The inventory shall include,
13 at a minimum, total direct emissions statewide and sector- and
14 source-specific emissions and source-specific greenhouse gas
15 emission information required to be reported pursuant to rules
16 adopted by the environmental improvement board;

17 (3) identify specific policies and regulatory
18 strategies that are either in place or necessary to be in place
19 to achieve the greenhouse gas emissions limits;

20 (4) identify additional programs needed to
21 achieve the greenhouse gas emissions limits, including programs
22 to reduce greenhouse gas emissions from light-, medium- and
23 heavy-duty vehicles sold in the state and the adoption of
24 updated building and energy codes, and the budgetary resources
25 needed to implement the programs; and

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1 (5) identify opportunities to increase energy
2 efficiency investments and targets for electric utilities,
3 including opportunities for low-income households.

4 SECTION 5. [NEW MATERIAL] POWERS AND DUTIES--DEPARTMENT
5 OF ENVIRONMENT--ENERGY, MINERALS AND NATURAL RESOURCES
6 DEPARTMENT.--The department of environment and the energy,
7 minerals and natural resources department may seek necessary
8 resources from the legislature or other appropriate sources,
9 coordinate the efforts needed in the state and among the state
10 agencies and take any action authorized by law that is deemed
11 necessary or appropriate by the secretary of the respective
12 department for the state to meet the greenhouse gas emissions
13 limits established in Section 3 of the Clean Future Act.

14 SECTION 6. A new section of the Air Quality Control Act,
15 Section 74-2-5.4 NMSA 1978, is enacted to read:

16 "74-2-5.4. [NEW MATERIAL] DUTIES AND POWERS--
17 ENVIRONMENTAL IMPROVEMENT BOARD--LOCAL BOARD--GREENHOUSE GAS
18 EMISSIONS.--

- 19 A. For the purposes of this section:
- 20 (1) "direct emissions" means greenhouse gas
21 emissions from a source;
 - 22 (2) "disproportionately impacted communities"
23 means disadvantaged communities or communities or populations
24 of people for which multiple burdens, including environmental
25 and socioeconomic stressors, inequity, poverty, high

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1 unemployment, pollution or discrimination, may act to
2 persistently and negatively affect the health, well-being and
3 environment of the communities or populations;

4 (3) "greenhouse gas" means gaseous compounds
5 that absorb infrared radiation emitted from the earth's surface
6 and trap heat in the earth's atmosphere, including carbon
7 dioxide, methane, nitrous oxide, hydrofluorocarbons,
8 perfluorocarbons, nitrogen trifluoride and sulfur hexafluoride,
9 but not including water vapor;

10 (4) "net-zero emissions" means allowable
11 direct emissions of greenhouse gases that are fully offset; and

12 (5) "offset" means a quantifiable,
13 enforceable, additional, permanent and verifiable greenhouse
14 gases reduction or sequestration by biological, chemical or
15 geological means from a source that is not otherwise subject to
16 mandatory greenhouse gas emission reduction requirements of the
17 same amount, which reduction or sequestration is measured in
18 terms of metric tons of carbon dioxide equivalent.

19 B. No later than June 30, 2025, the department
20 shall petition the environmental improvement board to
21 promulgate rules to reduce greenhouse gas emissions from
22 sources subject to the Air Quality Control Act.

23 C. Notwithstanding the provisions of Section 74-2-5
24 NMSA 1978, the environmental improvement board shall have
25 exclusive authority under the Air Quality Control Act to adopt

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1 rules to reduce greenhouse gas emissions for purposes of
2 meeting statewide climate goals and emissions limits. The
3 rules shall apply to sources statewide, including sources
4 within the boundaries of a local authority. A local board may
5 adopt greenhouse gas emissions reduction rules in addition to
6 the environmental improvement board rules; provided that rules
7 adopted by the local board shall be at least as stringent as
8 the rules adopted by the environmental improvement board and
9 shall not conflict with rules adopted by the environmental
10 improvement board.

11 D. The environmental improvement board shall adopt
12 rules:

13 (1) determining the proportionate share of
14 greenhouse gas emission reductions from sources within the
15 board's jurisdiction to achieve:

16 (a) by 2030, statewide direct emissions
17 of greenhouse gases that do not exceed fifty percent of 2005
18 levels, as determined by the department; and

19 (b) by 2050, total statewide greenhouse
20 gas emissions that are at least net-zero emissions; provided
21 that total statewide direct emissions of greenhouse gases shall
22 not exceed ten percent of 2005 levels in 2050 or any subsequent
23 year, as determined by the department; and

24 (2) to achieve the limits established pursuant
25 to Paragraph (1) of this subsection, establishing:

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1 (a) greenhouse gas emissions reporting
2 and disclosure requirements;

3 (b) greenhouse gas emissions limits and
4 reduction requirements;

5 (c) protocols for the review and
6 approval by the department of greenhouse gas emission offset
7 credits, including preferences for offsets based on their
8 geographic location and the impact of the offsets on
9 disproportionately impacted communities or environmental
10 justice communities. The credits shall represent a greenhouse
11 gas emission reduction, avoidance or sequestration that is
12 real, additional, quantifiable, permanent, verifiable and
13 enforceable;

14 (d) protocols for the transfer, sale and
15 trading of greenhouse gas emission offset credits;

16 (e) requirements for sources or sectors
17 not meeting greenhouse gas emission reduction requirements to
18 obtain greenhouse gas emission offset credits;

19 (f) reasonable fees to be paid by
20 sources. The fees may be based on total direct emissions from
21 a source, the number of offset credits a source uses to meet
22 the applicable greenhouse emission reduction requirements or
23 the sale or transfer of offset credits by a source, or a
24 combination thereof. The fees shall cover the reasonable costs
25 of the department to administer and enforce the greenhouse gas

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1 emissions rules promulgated by the environmental improvement
2 board and shall be deposited in the state climate fund; and

3 (g) any other requirements the board
4 deems necessary to achieve the limits established pursuant to
5 Paragraph (1) of this subsection."

6 SECTION 7. A new section of the Air Quality Control Act
7 is enacted to read:

8 "[NEW MATERIAL] STATE CLIMATE FUND--CREATED.--The "state
9 climate fund" is created in the state treasury and shall be
10 administered by the department. The fund consists of
11 appropriations, gifts, grants, donations, income from
12 investment of the fund and fees collected by the department
13 pursuant to rules established by the environmental improvement
14 board pursuant to Section 74-2-5.4 NMSA 1978. Money in the
15 fund is appropriated to the department for the purpose of
16 administering and enforcing the greenhouse gas emissions rules
17 promulgated by the environmental improvement board pursuant to
18 the Air Quality Control Act. Disbursements from the fund shall
19 be made by warrant of the secretary of finance and
20 administration pursuant to vouchers signed by the secretary of
21 environment or the secretary's designee. Any unexpended or
22 unencumbered balance remaining in the fund at the end of any
23 fiscal year shall not revert to the general fund."