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

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

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

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

E. "offset" means a quantifiable, enforceable,
additional, permanent and verifiable greenhouse gases reduction
or sequestration by biological, chemical or geological means
from a source or entity that is not otherwise subject to
mandatory greenhouse gas emission reduction requirements of the
same amount, which reduction or sequestration is measured in
terms of metric tons of carbon dioxide equivalent; and

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

SECTION 3. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS

LIMITS--ESTABLISHED.--Emissions of greenhouse gases in New
Mexico shall be limited as follows:

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

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

SECTION 4. [NEW MATERIAL] REPORTING--DETERMINATION OF

2005 LEVELS.--

A. Annually, by April 15, beginning the year after
   the enactment of the Clean Future Act, each state entity shall
   provide to the department of environment and the energy,
minerals and natural resources department information on:

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

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

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

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

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

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

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

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

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

(4) identify additional programs needed to achieve the greenhouse gas emissions limits, including programs to reduce greenhouse gas emissions from light-, medium- and heavy-duty vehicles sold in the state and the adoption of updated building and energy codes, and the budgetary resources needed to implement the programs; and
(5) identify opportunities to increase energy efficiency investments and targets for electric utilities, including opportunities for low-income households.

SECTION 5. [NEW MATERIAL] POWERS AND DUTIES--DEPARTMENT OF ENVIRONMENT--ENERGY, MINERALS AND NATURAL RESOURCES

DEPARTMENT.--The department of environment and the energy, minerals and natural resources department may seek necessary resources from the legislature or other appropriate sources, coordinate the efforts needed in the state and among the state agencies and take any action authorized by law that is deemed necessary or appropriate by the secretary of the respective department for the state to meet the greenhouse gas emissions limits established in Section 3 of the Clean Future Act.

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

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

A. For the purposes of this section:

(1) "direct emissions" means greenhouse gas emissions from a source;

(2) "disproportionately impacted communities" means disadvantaged communities or communities or populations of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high
unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the communities or populations;

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

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

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

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

C. Notwithstanding the provisions of Section 74-2-5 NMSA 1978, the environmental improvement board shall have exclusive authority under the Air Quality Control Act to adopt
rules to reduce greenhouse gas emissions for purposes of meeting statewide climate goals and emissions limits. The rules shall apply to sources statewide, including sources within the boundaries of a local authority. A local board may adopt greenhouse gas emissions reduction rules in addition to the environmental improvement board rules; provided that rules adopted by the local board shall be at least as stringent as the rules adopted by the environmental improvement board and shall not conflict with rules adopted by the environmental improvement board.

D. The environmental improvement board shall adopt rules:

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

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

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

(2) to achieve the limits established pursuant to Paragraph (1) of this subsection, establishing:
(a) greenhouse gas emissions reporting and disclosure requirements;

(b) greenhouse gas emissions limits and reduction requirements;

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

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

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

(f) reasonable fees to be paid by sources. The fees may be based on total direct emissions from a source, the number of offset credits a source uses to meet the applicable greenhouse emission reduction requirements or the sale or transfer of offset credits by a source, or a combination thereof. The fees shall cover the reasonable costs of the department to administer and enforce the greenhouse gas emissions reporting and disclosure requirements.
emissions rules promulgated by the environmental improvement board and shall be deposited in the state climate fund; and

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

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

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