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FISCAL IMPACT REPORT

SPONSOR SFC ORIGINAL DATE 01/26/22
LAST UPDATED 02/03/22 HB _____
SHORT TITLE Enacting the Clean Fuel Standard Act SB CS/CS/14/aSFC/STBTC
ANALYST Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$420.0	\$420.0	\$840.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)

Energy, Minerals and Natural Resources Department (EMNRD)

Environment Department (NMED)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment removes nonreverting language from the creation of the clean fuel standard fund to establish that unexpended or unencumbered balances remaining at the end of any fiscal year shall revert to the general fund. The amendment also adds that money in the fund is subject to appropriation by the Legislature rather than appropriated directly to a state agency.

Synopsis of Bill

The Senate Finance Committee substitute for the Senate Tax, Business and Transportation Committee substitute for Senate Bill 14 (CS/CS/SB14/aSFC/STBTC) would enact the Clean Fuel Standards Act and proposes a clean fuel standard (CFS) using performance- and market-based incentives to reduce the carbon intensity of transportation fuels. CS/CS/SB14/aSFC/STBTC directs the Environmental Improvement Board (EIB) to adopt a CFS that applies to transportation fuels used in New Mexico, requiring that such fuels meet the following reductions in carbon intensity (CI) values: a reduction of the CI of transportation fuels by a minimum of 20 percent from 2018 levels by 2030 and by a minimum of 30 percent from 2018 levels by 2040. The CFS would only apply to fuels used in motor vehicles (including special mobile equipment,

such as forklifts) and businesses that produce or import those fuels (referred to as “providers” in the bill).

CS/CS/SB14/aSFC/STBTC defines “carbon intensity” as “the quantity of fuel lifecycle emissions per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule.” The Energy, Minerals and Natural Resources Department (EMNRD) explains the CI of a fuel would be determined based on the aggregate greenhouse gas (GHG) emissions throughout the fuel’s lifecycle, including emissions resulting from the production, shipping, and use of the fuel.

CS/CS/SB14/aSFC/STBTC directs the Environment Department (NMED) to petition the EIB to enact rules implementing the CFS within 24 months of the effective date of the legislation. The central mechanism for implementation established by the bill is a system, to be developed through rulemaking, whereby individuals can earn “credits” by reducing eligible GHG emissions and may sell those credits to providers who are in a “deficit” – providers of a transportation fuel that has a CI greater than the applicable standard. A credit and a deficit are each equal to one metric ton of carbon dioxide equivalent.

The bill requires EIB’s rules to establish a fair market for credit transactions, managed by NMED or a third party. The market would be governed by EIB rules, which will enable credits to be traded or saved by providers for future compliance periods. Providers would demonstrate compliance with the CFS by balancing credits and deficits annually and submitting “fuel pathway” applications, fuel transactions, and CI data to NMED. “Fuel pathway” is defined in the bill as “a detailed description of all stages of production and uses for a transportation fuel...that is used to calculate the fuel lifecycle emissions of a transportation fuel.”

The EIB rules will specify how credits are generated, and CS/CS/SB14/aSFC/STBTC requires the rules to prioritize mechanisms for credit generation that benefit disproportionately impacted, environmental justice, and rural communities. The bill also requires electric utilities that generate credits from electricity used as transportation fuel to reinvest at least 50 percent of credit-generated revenues into transportation electrification projects, rebates for electric vehicle purchases, or direct benefits for current electric vehicle customers. Of these investments, 30 percent of the funds in year one, 40 percent in year two, and 50 percent in subsequent years must be directed toward transportation electrification projects that primarily benefit disproportionately impacted, environmental justice, and rural communities.

Under SB14, NMED would be responsible for administration and enforcement of the CFS and associated credits. The bill requires the department to develop, in consultation with the Department of Agriculture (NMDA), an emergency deferral process, to be conducted with the input of stakeholders, for temporarily suspending CFS implementation to address market conditions. Details of this process will be established through the EIB’s CFS rulemaking, but must include a requirement that NMED consider a provider’s request for emergency deferral.

CS/CS/SB14/aSFC/STBTC would create the “clean fuel standard fund,” to consist of fees collected from the regulation of transportation fuels pursuant to the CFS, as well as any other appropriations, gifts or grants, and investment income. Appropriations from the fund shall be used for NMED staffing and resources needed for administration and enforcement of transportation fuel regulations.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

To meet the requirements of SB14/STBTC, NMED reports it will require:

- 6 FTE to develop proposed rules, conduct stakeholder and public outreach, petition the EIB, and participate in the rulemaking hearing process;
- Temporary contractual services for outside technical experts who would conduct additional analyses and assist in the preparation of EIB hearing exhibits and testimony, including calculation of carbon intensities of existing transportation fuels; rule-drafting legal assistance, including review of legislation from other states; development of market trading rules and software platforms; development of a platform for permitting, certification, and compliance; and identifying specific mechanisms and rules for credit generation; and
- Ongoing contractual services for trading platform software subscription and maintenance, carbon intensity determination, and analyses.

NMED estimates the total annual cost for these resources is \$1.07 million. House Bill 2 currently includes a general fund operating budget increase of \$650 thousand for NMED to create a Climate Change Bureau, which would be responsible for developing a CFS, staffed by 7 FTE. CS/CS/SB14/aSFC/STBTC also requires the CFS rules to include registration fees on providers and any person generating credits in an amount sufficient to cover the reasonable costs of NMED's administration and enforcement of the rules. These fees would likely not be instituted and begin generating revenue to fund program expenses until FY25, once the process of developing, proposing, and adopting rules is complete. The funding in HB2 for a Climate Change Bureau was factored in to the estimated operating budget impact shown on page 1; registration fee revenue will have no impact on operating costs in FY23-FY24.

This bill creates a new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

According to the U.S. Environmental Protection Agency, transportation is the economic sector that generates the largest proportion of GHG emissions in the United States, and it is the second-largest source of GHG emissions in New Mexico, contributing approximately 14 percent of the state's total emissions. EMNRD states SB14's proposed reductions in lifecycle CI could lead to more efficient oil and gas production, thereby potentially reducing GHG emissions in the oil and gas sector, New Mexico's largest source of emissions, in addition to transportation.

Most states have adopted policies to target emissions reductions in the transportation sector, primarily focused on clean vehicle programs and incentives. Six states have alternative fuel standards, which require a certain percentage of gasoline or diesel sold in a state to be sourced from alternative fuels such as ethanol and biodiesel.¹ California and Oregon have low carbon or

¹ Center for Climate and Energy Solutions, <https://www.c2es.org/document/low-carbon-fuel-standard/>.

clean fuel standards similar to the one proposed by SB14, which set reduction targets for the CI of fuels rather than prescribing the types of fuels to be sold.

While the credit generation and marketplace mechanisms established by CS/CS/SB14/aSFC/STBTC bear similarities to cap and trade programs, there are a few distinctions that set a CFS apart. First, a CFS only requires fuel producers and importers to reduce the CI of their fuels, while a cap and trade program places a limit on GHG emissions from any given sector or the economy as a whole. Furthermore, in a cap and trade program, the government distributes or auctions emissions allowances to companies; under this bill's proposed CFS, any company or individual in a variety of economic sectors to which the CFS does not apply can earn credits by reducing their GHG emissions and sell those credits to fuel providers who must comply with the CFS. As a result, while the policy targets GHG emissions from transportation fuels, it also provides an opportunity for individuals and businesses in other sectors to benefit economically from reducing their own emissions.

NMED posits that a CFS and credit market “will allow New Mexico to reduce emissions in the hard-to-decarbonize transportation sector while driving innovation across the transportation industry, diversifying the state’s economy, and creating jobs.” The Economic Development Department (EDD) anticipates CS/CS/SB14/aSFC/STBTC will promote statewide economic development and diversification by creating new opportunities and incentives for investment in emerging clean energy technologies as well as research and development. EDD cites data from California, which has had a CFS since 2010, to support claims that a similar policy in New Mexico could spur job growth: according to EDD, four clean energy business sectors saw increases in annual employment and wages between 2011 and 2019. NMED also points out that clean fuels generated in New Mexico will be eligible for sale as clean fuels in other states such as Oregon, California, and Washington that have CFS policies in place.

EMNRD expects implementation of CS/CS/SB14/aSFC/STBTC will lead to increased investment in alternative fuel production and distribution infrastructure, including but not limited to gas stations providing ethanol, hydrogen fuel cells, and charging stations for electric vehicles. Building out this type of infrastructure could encourage clean vehicle adoption by New Mexico residents by increasing the convenience and lowering the cost of owning electric or clean fuel vehicles. EMNRD also reports CS/CS/SB14/aSFC/STBTC would enable the state to more easily comply with the federal requirement that 75 percent of the state’s light-duty vehicle purchases be alternatively fueled, which applies to nearly all of New Mexico’s state fleets. According to EMNRD, which manages compliance with this federal law, the state’s current lack of alternative fuel infrastructure is preventing it from transitioning to fully alternatively fueled vehicles.

EDD reports that a CFS could have a minimal, but positive, impact on fuel costs that would likely be passed on to consumers. However, NMED states that gas prices have not measurably increased in states that have already begun implementing a CFS.

PERFORMANCE IMPLICATIONS

Enactment of CS/CS/SB14/aSFC/STBTC would lower emissions from transportation fuels, resulting in improved air quality which should increase the percentage of New Mexico’s population breathing air that meets federal health standards. This is one of NMED’s key performance measures.

ADMINISTRATIVE IMPLICATIONS

Once rules are promulgated, NMED will administer the CFS program by

- developing and reporting on program metrics and program guidance;
- reviewing and approving fuel pathways and CI;
- conducting workshops and meetings with regulated parties and stakeholders;
- responding to programmatic questions from regulated parties;
- maintaining the program registration and reporting platform;
- calculating and collecting fees;
- responding to public comments; and
- enforcing the CFS.

CW/rl/al/acv