

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**        **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date** 01/17/24

**Bill No:** HB 41

**Sponsor:** Reps. Kristina Ortez & Christine Chandler  
**Short Title:** Clean Fuels Standard

**Agency Name and Code**    EMNRD 521  
**Number:** \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act - UNKNOWN

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

House Bill 41 (HB41) proposes to amend several sub-sections of Section 74-1 NMSA 1978, also known as Environmental Improvement Act, to provide the Environmental Improvement Board with the statutory authority needed to draft and enforce a statewide clean transportation fuels standard (CTFS).

HB41 proposes amendments to Section 74-1-3 NMSA 1978 (Environmental Improvement – General Provisions – Definitions) to add definitions for “carbon intensity,” “fuel lifecycle,” and “transportation fuel.”

HB41 also proposes to amend Section 74-1-8, NMSA 1978 (Environmental Improvement General Provisions – Board: duties), to add the promulgation of rules and standards for the carbon intensity of transportation fuels to the list of responsibilities of the Environmental Improvement Board (EIB). The bill adds language requiring the EIB to convene an advisory committee of stakeholders from various communities, industry sectors, and tribal nations to provide expertise and perspective to the Department of Environment regarding the drafting of a clean transportation fuel standard.

Following the advisory committee’s recommendation, HB41 proposes establishing a statewide, technology-neutral and fuel-agnostic standard, with a schedule for annually decreasing lifecycle carbon intensity of fuels used in the state. The standard would aim to reduce carbon intensity by at least 20% below 2018 levels by 2030 and decrease to at least 30% below 2018 carbon intensity levels by 2040. The standard would be met through mechanisms for managing fuel credits among the transportation fuel market, including mechanisms to bank credits for future compliance periods. Participating utilities would be required to invest revenue from sale of credits (minus admin costs) into infrastructure projects to support transportation decarbonization.

The bill additionally creates a mechanism to defer or pause the program based on emergency or forecasted price conditions and also establishes a periodic review process to assess and adjust the program. Finally, HB41 would establish fees for the cost of department administration and enforcement of the program, requiring that any such fees be deposited in the state air quality fund.

This bill would implement this clean fuel transportation standard program no later than July 1, 2026.

## **FISCAL IMPLICATIONS**

None for EMNRD.

## **SIGNIFICANT ISSUES**

Clean transportation fuels standards (CTFS) provide a fuel-agnostic mechanism to reduce the carbon intensity of fuels used for transportation. In the case of HB 41, this intended reduction is at least 20% below 2018 carbon intensity levels by 2030, and a further reduction by 2040 to at least 30% below 2018 carbon intensity levels. Versions of a CTFS bill have been introduced in multiple previous New Mexico legislative sessions. HB 41 responds to feedback on these previous attempts to bring a CTFS to the state.

Reducing the carbon intensity of transportation fuels in turn would reduce carbon dioxide emissions from the use of these fuels in New Mexico's transportation sector. This aligns with EMNRD's mission to implement Executive Order 2019-003, which committed New Mexico to reducing greenhouse gas emissions by at least 45% below 2005 levels by 2030. The transportation sector is the second-largest source of greenhouse gas emissions in New Mexico.

A CTFS allows industries to meet decarbonization goals with flexibility of fuel choice, selecting the appropriate low-carbon fuel for their individual use cases. In addition, a CTFS creates a market for meeting carbon intensity requirements by various means: generating, trading, selling or retiring credits among transportation fuel producers, fuel distributors and other individuals or entities in the transportation fuel market. Third party operators handle the logistics of the market mechanisms involved in these standards

Other states currently successfully operate clean fuels standards, and have done so for years (California and Oregon) – and more states are adopting this tool (including Washington and New York in the past two years). HB 41 guarantees, however, that any CTFS built from the authorizations in this bill would be New Mexico-specific, designed to meet this state's unique needs and objectives, by requiring the rulemaking for the CTFS program to include input from an advisory committee which will include industry, environmentalists, community advocates, and members of tribal nations, amongst others.

## **PERFORMANCE IMPLICATIONS**

Implementation of HB 41 would 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. These infrastructure investments would, as well as encouraging clean vehicle adoption by New Mexico residents, enable New Mexico to more easily comply with federal law and with Governor Lujan Grisham's Executive Order 2023-0138.

The Energy Conservation and Management Division (ECMD) within EMNRD administers the state's Alternative Fuel Program. ECMD promotes the use of alternatively fueled vehicles and ensures state fleets comply with federal requirements that state vehicle purchases must be at least 75% alternatively fueled. The majority of New Mexico state fleets are covered under the U.S. Department of Energy (DOE) State and Alternative Fuel Provider Fleet Program through which statutory provisions are administered. Requirements of the Energy Policy Act (EPAct) managed by the DOE, which Congress passed in 1992, require certain fleets to purchase alternatively fueled vehicles or to reduce their petroleum fuel consumption. The standard compliance requires fleets to acquire 75% alternatively-fueled vehicles of all light-duty vehicle acquisitions each year.<sup>2</sup> These program requirements<sup>3</sup> apply to almost all New Mexico state fleets. Implementation of HB 41 would increase the availability of zero-carbon fueling infrastructure and alternatively fueled vehicles, allowing EMNRD's Alternative Fuel Program to be more successful.

In addition, the infrastructure investments which would result from implementing HB 41 would enable EMNRD, along with all other state agencies, to more easily achieve the goals of Executive Order 2023-0138, which requires all state agencies to transition to a zero-emission vehicle fleet by 2035.

#### **ADMINISTRATIVE IMPLICATIONS**

None for EMNRD.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

#### **TECHNICAL ISSUES**

N/A

#### **OTHER SUBSTANTIVE ISSUES**

N/A

#### **ALTERNATIVES**

N/A

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If HB 41 is not enacted, the carbon intensity of transportation fuels in New Mexico will not decrease, there will be fewer incentives to develop alternative fuel infrastructure, and greenhouse gas emissions from the transportation sector will continue to be a major contributor to the state's overall planet-warming emissions.

#### **AMENDMENTS**