

LFC Requester:

Davidson

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 01/29/2026*Check all that apply:***Bill Number:** SB 18Original ☐ Correction ☒Amendment ☐ Substitute ☐**Agency Name****and Code**

NMED 667

**Number:****Sponsor:** Stewart, Ortiz, Charley**Short** Clear Horizons & Emissions  
Codification**Person Writing**

Michelle Miano

**Phone:** 505-479-2596**Email** [Michelle.miano@env.](mailto:Michelle.miano@env.)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

| Appropriation                                  |                   | Recurring<br>or Nonrecurring | Fund<br>Affected |
|------------------------------------------------|-------------------|------------------------------|------------------|
| FY26                                           | FY27              |                              |                  |
| \$5,000 in FY25<br>\$1,200.0 remaining in FY26 | \$276.0 remaining | \$0 remaining                | General Fund     |
| \$0                                            | \$0               | \$0                          | 0                |

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |              | Recurring<br>or<br>Nonrecurring | Fund<br>Affected |
|-------------------|------|--------------|---------------------------------|------------------|
| FY26              | FY27 | FY28         |                                 |                  |
| \$0               | \$0  | \$45,375,000 | Recurring                       |                  |
|                   |      |              |                                 |                  |

(Parenthesis ( ) indicate revenue decreases)

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

|              | FY26      | FY27       | FY28 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|-----------|------------|------|----------------------|------------------------------|------------------|
| <b>Total</b> | \$4,050.0 | \$15,648.0 | 0    | \$19,698.0           | Recurring                    | GF               |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Bill 18 (SB18) amends the Environmental Improvement Act (EIA) and sets limits on statewide greenhouse gas emissions (GHGE) by 2030, at least 45 percent less than 2005 levels; by 2040 at least 75 percent less than 2005 levels; and by 2050 and every subsequent year equal to 2005 levels, which may be achieved by direct reductions or offsetting emissions within the exterior boundaries of the state. NMED understands the statewide greenhouse gas emission limits apply only to the statewide reductions as an aggregate – not individual sources.

SB18 adds definitions for “greenhouse gas”, and “statewide greenhouse gas emissions” to the EIA (Section 74-1 NMSA 1978). SB18 adds definitions for “greenhouse gas”, “greenhouse gas intensity”, “non-reservation Indian land”, “reservation”, and “statewide greenhouse gas emissions” to the Air Quality Control Act (AQCA) (Section 74-2 NMSA 1978). In Section 5, SB18 adds new duties and powers to the Environmental Improvement Board and the local board to the AQCA to regulate or reduce greenhouse gas emissions through numerous mechanisms (i.e., market mechanisms, offsets, sector-based emission limits, etc.).

SB18 requires the Environmental Improvement Board and local board (herein “the boards”) to adopt and certify a plan to meet the GHGE limits set by SB18 by December 31, 2028. Every two years the boards certify that the plan and the promulgated rules will achieve the GHGE limits. SB18 also requires the boards, by December 2028, to adopt a compendium of rules as identified in the plan to implement the reduction of GHGE. SB18 requires the boards to adopt rules establishing GHGE limits on all stationary sources in New Mexico that, if individually owned, have the potential to emit greater than 10,000 metric tons of greenhouse gases or, if under common ownership, have the potential to emit greenhouse gases greater than 25,000 metric tons.

SB18 requires the boards to adopt new or modify existing rules to require sources of GHGE to monitor and report emissions in carbon dioxide equivalents to the boards beginning on January 1, 2028. SB18 requires that by September 20, 2028, the boards adopt rules that establish a certification process for mechanisms that offset emissions that must be located within the exterior boundaries of the state and may be located on Indian lands.

In Section 74-2-5.4(F), SB18 adds considerations that the boards may consider when adopting the plan or the rules, like funding sources, the relative cost of carbon reduction mechanisms, an emitters potential to emit GHGE, other mechanisms to reduce greenhouse gas intensity, flexible compliance mechanisms; and the use of certified GHGE removal and reductions.

SB18 requires NMED annually publish – in consultation with EMNRD, NMDOT and other relevant federal, state, local and tribal entities – an extensive GHGE “report” that includes the baseline emissions; the statewide emissions; a GHGE projections based on promulgated rules and existing programs; a list of actions with schedules to reach the GHGE limits; and additional recommended actions. Additionally, SB18 requires the NMED to submit an annual report to the governor, the legislature, and Tribal governments.

SB18 requires the boards to engage in consultation with Tribal governments pursuant to the State-Tribal Collaboration Act and to engage with communities that will be most affected by the proposed actions.

SB18 requires the Environmental Improvement Board to set a fee schedule for NMED and requires the local board to set a fee schedule for the local agency, to implement the provisions of this section.

## **FISCAL IMPLICATIONS**

In addition to utilizing the FTEs already in the NMED air and climate program bureaus and enforcement bureaus (not including impacts to the local board), enacting SB18 will require additional NMED resources over time.

NMED estimates approximately 12 rulemakings to address the diversity of sectors regulated through multiple approaches including emission standards and carbon intensity reductions, market mechanisms and offsets, and others through December 31, 2028. The Department estimates over 3,000 individual sources as follows: 69 facilities with emissions over 10,000 metric tons of greenhouse gas emissions and 51 organizations with 3,025 facilities emitting over 25,000 metric tons of greenhouse gas emissions.

The rulemakings include (1) continued climate action planning; (2) approximately ten greenhouse gas emissions limits by sector and/or measure depending on the approach that NMED determines is achievable; (3) authority to determine monitoring and reporting requirements, (4) creating a certification program; and (5) greenhouse gas inventory work.

Based on NMED’s experience in preparing climate and air quality rulemaking petitions and associated hearings, the Clean Transportation Fuel Standard rules cost \$4,100,000 and the Oil and Gas Ozone Precursor rules cost \$1,000,000. In the Clean Transportation Fuel Standard rulemaking, NMED estimates it spent 8,000 hours of staff time on this effort. In the Oil and Gas Ozone Precursor rulemaking, NMED estimates it spent 15,000 hours of staff time on this effort. NMED highlights these rulemaking costs to show that decreased staff time can increase the reliance on contract support while increased staff time can decrease the reliance on contract support. NMED anticipates increased staffing levels will help decrease contract costs.

With regard to the remainder of FY26, NMED anticipates that it will need \$4,050,000 in funding for contracts work to ensure that it can immediately begin: (1) develop monitoring and reporting requirements; (2) initiate the creation of a certification program; (3) begin developing a suite of regulations as described in the Climate Action Plan to ensure that state greenhouse gas emissions meet the required reduction limits; and (4) initiate the next round of greenhouse gas inventory and planning work to meet the identified deadlines.

In FY27 and FY28, NMED will incur staff expenses. NMED will need an estimated 24 program, enforcement, and legal staff across the Department estimated at \$3,648,000 annually. In these years, NMED estimates increased staffing will offset contract costs so NMED assumed \$2,000,000 per rulemaking.

SB18 provides that NMED can collect fees. Rulemaking efforts in FY26 and FY27 will begin to generate revenues in FY28. Rulemaking efforts in FY28 will begin to generate revenues in FY29 and beyond. Conservatively, NMED estimates a modest GHGE fee structure to parallel state air quality emission fees will provide for a fee-based vs. general fund-based program. Such a fee structure could include: a flat permit fee regardless of emissions or an emissions-based fee (i.e., fee per ton of carbon dioxide equivalent emitted). Either approach would generate sufficient revenues to administer the rulemaking required under SB18. For example, a permit fee of \$15,000 would generate over \$45,375,000 in revenues. Alternatively, a \$15.00 per ton of carbon dioxide equivalent would generate \$375,000 per facility emitting 25,000 tons of carbon dioxide equivalent. With over 3,000 facilities in this category, this fee structure would generate \$1,125,000,000. These fee structures are commensurate with other state programs. SB18 explicitly states that fees will be deposited into the air quality permit fund and the Department may use these fees for the implementation of the act and rules.

Related to the fiscal impact of SB18, the State's Climate Action Plan summarizes various measures and their individual and collective estimated costs, GHG emission reductions, and monetized benefits through 2050. For example, the cumulative reduction in GHGE between 2026 and 2050 has the estimated benefit \$48,000,000,000 in savings through avoided/reduced health impacts, agricultural losses, infrastructure risks, and environmental degradation.

## **SIGNIFICANT ISSUES**

The NMED Air Quality Bureau (i.e., rule writing and permitting programs) and Environmental Protection Compliance and Enforcement Bureau (i.e., air and climate rule and permit enforcement programs) are largely funded through fees of regulated parties pursuant to the Air Quality Control Act. Such fees are proposed by the Department and approved by the Environmental Improvement Board (EIB). Currently, there is a proposed fee increase petition before the EIB as petitioned by the Department. As it relates to any rulemakings brought under the Air Quality Control Act, the Department's ability to carry out the front-end work required to complete all of the required rulemakings, permitting, monitoring, and other business may be in jeopardy without the EIB approving that fee-increase proposal.

Given recent deliberations and decisions by the EIB on other rules, additional enforcement and penalty language could be added for each of the requirements in addition to that added under the certification rulemaking requirements. SB18 should state clearly and specifically what authority the Department has to enforce and assess civil penalties. Otherwise, other requirements in SB18 may face questions by the boards regarding the authority to enforce and collect penalties.

## **PERFORMANCE IMPLICATIONS**

To improve the Department's administration and data quality, the statewide greenhouse gas emission inventory should only be conducted every other year and reporting only be required every other year.

## **ADMINISTRATIVE IMPLICATIONS**

Pages 11 through 14 directs action by both the EIB and the local board. Tasking both boards with the deliverables under SB18 creates a potential conflict for two (or more) agencies to align policy outcomes for the broader (e.g., state) and narrow (e.g., county/city) jurisdictions. This potential challenge could be overcome by adding "each" after "shall" to make it clear that the EIB shall adopt a plan/rule and the local board shall adopt a plan/rule, but they do not necessarily need to be one plan or rule.

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

SB18 relates to an HB2 appropriation for the implementation of SB83 from the 2025 Regular Session. Specifically, HB2 appropriated \$5 million to the Department of the Environment for the purposes authorized under the innovation in state government fund in fiscal years 2026 and 2027, contingent on enactment of Senate Bill 83 or similar legislation of the first session of the fifty-seventh legislature creating the fund. At the time this document was drafted, the Department's remaining balance of the \$5 million appropriation was approximately \$1.2 million, with a projection of approximately \$276,000 remaining at the beginning of FY27 for this purpose.

## **TECHNICAL ISSUES**

Pg. 2 Line 11: The Department recommends the definition of "greenhouse gas" align with the definition used in the Clean Transportation Fuel Program rule (20.2.92 NMAC) approved by the EIB: "greenhouse gas" means a gaseous compound that traps heat in the earth's atmosphere, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride and sulfur hexafluoride but not including water vapor.

## **OTHER SUBSTANTIVE ISSUES**

NMED recommends striking Section 74-2-5.4(F). The "may" on Page 14, line 15 introduces rulemaking ambiguity and gives the boards unclear direction and authority. In their rulemaking authority, the boards may already consider all the items listed in Section 74-2-5.4(F). and this section serves to obfuscate their responsibilities, making the board prone to longer and more deliberation.

## **ALTERNATIVES**

N/A

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

Climate change has and will continue to cost the State of New Mexico significant and adverse impacts to public health, environment, local infrastructure and the economy. Failing to enact this bill will require significant appropriations to mitigate such impacts to public health, environment, local infrastructure, and the economy. Further, Governor Michelle Lujan Grisham's Executive Order 2019-003 addressing climate change will remain in an Executive Order and not in law, putting New Mexico's statewide greenhouse gas reductions at risk of repeal.

## **AMENDMENTS**

Previously discussed.