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HOUSE BILL 9

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Melanie Ann Stansbury and Brian Egolf and Angelica Rubio

AN ACT

RELATING TO CLIMATE CHANGE SOLUTIONS; ENACTING THE CLIMATE SOLUTIONS ACT; CREATING THE CLIMATE LEADERSHIP COUNCIL; REQUIRING THE DEVELOPMENT OF A STATEWIDE FRAMEWORK TO ADDRESS CLIMATE CHANGE AND DEVELOP A SUSTAINABLE ECONOMY; ESTABLISHING STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTION REQUIREMENTS; DIRECTING STATE AGENCIES TO ADOPT RULES AS ALLOWED BY AN AGENCY'S EXISTING STATUTORY AUTHORITY TO ACHIEVE STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTIONS AND FOSTER INCLUSION IN WORKFORCE DEVELOPMENT AND PROCUREMENT RELATED TO CLIMATE SOLUTIONS; REQUIRING ANNUAL REPORTING; DIRECTING THE CLIMATE LEADERSHIP COUNCIL TO RECOMMEND AND PRIORITIZE FUNDING FROM THE CLEAN ENERGY GRANTS FUND; AMENDING A DEFINITION IN THE AIR QUALITY CONTROL ACT TO ALLOW FOR GREATER OVERSIGHT OF SOURCES OF AIR POLLUTION.

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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

2 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
3 through 7 of this act may be cited as the "Climate Solutions
4 Act".

5 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
6 Climate Solutions Act:

7 A. "council" means the climate leadership council;

8 B. "climate solutions" means strategies developed
9 by the council to meet the greenhouse gas emissions reductions
10 required pursuant to Section 6 of the Climate Solutions Act and
11 to promote equity, a sustainable economy and high-road
12 employment and training;

13 C. "disproportionately impacted community" means a
14 community or population of people for which multiple burdens,
15 including environmental and socioeconomic stressors, inequity,
16 poverty, high unemployment, pollution or discrimination, may
17 act to persistently and negatively affect the health,
18 well-being and environment of the community or population and
19 includes tribal communities, communities of color and
20 low-income rural communities and native people, people of
21 color, women, immigrants, formerly incarcerated people,
22 lesbian, gay, bisexual, transgender and queer people and people
23 with disabilities;

24 D. "economic inclusion" means high-road employment,
25 training and contracting opportunities and includes improved

1 access to those opportunities for disproportionately impacted
2 communities;

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

9 F. "high-road employment" means jobs with
10 family-sustaining wages and benefits, opportunities for
11 advancement and safe working conditions in industries engaged
12 in sustainable economic development;

13 G. "mitigation" means the reduction of greenhouse
14 gas emissions or the sequestration of carbon and other
15 greenhouse gases;

16 H. "net-zero emissions" means a total of zero
17 greenhouse gas emissions, with any emissions netted against
18 quantifiable, enforceable, additional, permanent and verifiable
19 sequestered greenhouse gases, whether sequestered by
20 biological, chemical or geological means;

21 I. "resilience" means the capability to anticipate,
22 prepare for, respond to and recover from impacts and minimize
23 damage to social well-being, including damage to the economy,
24 health and the environment;

25 J. "risk" means a combination of the magnitude of a

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1 potential climate change impact and the likelihood that the
2 consequence will occur;

3 K. "state agency" means a governmental entity
4 within the executive branch of state government or under the
5 direction of the office of the governor;

6 L. "statewide greenhouse gas emissions" means the
7 total net statewide anthropogenic emissions of greenhouse
8 gases, including emissions from the production of imported
9 electricity and fuels and subtracting any carbon sequestered in
10 the state, expressed as carbon dioxide equivalent calculated
11 using a methodology and data on radiative forcing and
12 atmospheric persistence;

13 M. "statewide strategy" means the strategy for the
14 state to address and prepare for the impacts of climate change,
15 including impacts on health, the economy, society and the
16 environment, developed by the council pursuant to Section 4 of
17 the Climate Solutions Act; and

18 N. "sustainable economy" means an economy that
19 supports high-road employment, thriving communities, a healthy
20 environment and worker and community participation in decision
21 making.

22 SECTION 3. [NEW MATERIAL] CLIMATE LEADERSHIP COUNCIL--
23 CREATED.--

24 A. The "climate leadership council" is created and
25 is administratively attached to the energy, minerals and

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1 natural resources department. The energy, minerals and natural
2 resources department shall provide administrative and clerical
3 assistance to the council.

4 B. The council shall:

5 (1) consist of the secretaries of all cabinet
6 departments as voting members; and

7 (2) include as advisory members:

8 (a) one representative of the state land
9 office;

10 (b) two representatives of tribal and
11 local governments;

12 (c) two representatives of
13 disproportionately impacted communities;

14 (d) three members, with one each having
15 an expertise in mitigation, economic development or workforce
16 development;

17 (e) two members representing relevant
18 industrial sectors that will be involved in implementing
19 climate solutions; and

20 (f) the members of the sustainable
21 economic development subgroup that are not members of the
22 council.

23 C. The council shall be co-chaired by the secretary
24 of energy, minerals and natural resources and the secretary of
25 environment.

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1 D. The co-chairs shall appoint advisory members to
2 the council and subgroups created by the council. Advisory
3 members shall serve for a term of four years and may be
4 reappointed to serve for one additional term.

5 E. The co-chairs shall convene regular meetings of
6 the council, and any subgroup, throughout the year as needed to
7 carry out the Climate Solutions Act, but no less than
8 quarterly. In addition to the requirements of the Open
9 Meetings Act, meeting notices shall be published in a manner
10 that is reasonably likely to reach members of the public,
11 including tribal members and members of disproportionately
12 impacted communities, that may have an interest in a specific
13 agenda item.

14 F. Public members of the council or a subgroup of
15 the council may receive per diem and mileage as provided in the
16 Per Diem and Mileage Act but shall receive no other
17 compensation, perquisite or allowance.

18 SECTION 4. [NEW MATERIAL] CLIMATE LEADERSHIP COUNCIL--
19 DUTIES--REPORT.--

20 A. The council shall develop and recommend for
21 implementation a statewide strategy for New Mexico to:

- 22 (1) prepare for climate change, reduce
23 vulnerabilities, expand training and access to high-road
24 employment and enhance the resilience of New Mexico's
25 communities, especially disproportionately impacted

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1 communities, of natural and built systems and of economic
2 sectors to climate impacts and risks;

3 (2) advance a framework for mitigation
4 consistent with the statewide greenhouse gas emission
5 reductions required by Section 6 of the Climate Solutions Act,
6 with sustainable economic growth and with high-road employment
7 and training;

8 (3) support New Mexico's communities in
9 planning and preparing for and responding to climate change;

10 (4) advance the recommendations of the
11 sustainable economic development subgroup; and

12 (5) support the resilience and sustainability
13 of the state's economy and its communities, especially
14 disproportionately impacted communities.

15 B. The statewide strategy shall include a statewide
16 plan, timelines for implementation, performance metrics and
17 budgets and identify specific recommended climate solutions and
18 agency rules, policies, programs or partnerships to further
19 resilience, mitigation, diversification and inclusion.

20 C. To implement the statewide strategy, the council
21 shall:

22 (1) advise, recommend and collaborate with
23 state agencies on implementing climate solutions appropriate to
24 the jurisdiction of a state agency and may petition a state
25 agency or a state agency's rulemaking body to adopt rules under

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1 each agency's statutory authority to implement the recommended
2 strategies advanced by the council;

3 (2) recommend programs to encourage
4 implementation of climate solutions and create high-road
5 employment opportunities throughout the state and in particular
6 in disproportionately impacted communities;

7 (3) work with the state land office and
8 federal bureaus and agencies that manage land and natural
9 resources in New Mexico on developing and implementing climate
10 solutions;

11 (4) identify legislative changes needed to
12 address climate change and implement climate solutions; and

13 (5) provide recommendations and set
14 priorities, with an emphasis on disproportionately impacted
15 communities, equity and expanding a sustainable economy, for
16 expenditures from the clean energy grants fund when funds are
17 available.

18 D. The council shall submit an annual report to the
19 governor and appropriate interim legislative committees no
20 later than September 15, 2021 and every year thereafter by
21 September 15. The report shall include the progress made
22 toward achieving statewide greenhouse gas emissions reductions
23 pursuant to Section 6 of the Climate Solutions Act, identify
24 legislative changes needed to implement the statewide strategy
25 or identified climate solutions and provide other

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1 recommendations to implement the statewide strategy.

2 SECTION 5. [NEW MATERIAL] SUSTAINABLE ECONOMIC
3 DEVELOPMENT SUBGROUP--MEMBERSHIP--DUTIES--STRATEGIC PLAN.--

4 A. By no later than August 1, 2021, the co-chairs
5 of the council shall convene, in collaboration with the
6 secretaries of economic development and workforce solutions, a
7 sustainable economic development subgroup. The sustainable
8 economic development subgroup shall be co-chaired by the
9 secretaries of economic development and workforce solutions.

10 B. The voting membership of the sustainable
11 economic development subgroup shall consist of one
12 representative each from the:

- 13 (1) economic development department;
- 14 (2) workforce solutions department;
- 15 (3) department of finance and administration;
- 16 (4) taxation and revenue department;
- 17 (5) general services department;
- 18 (6) higher education department;
- 19 (7) public education department;
- 20 (8) state investment council; and
- 21 (9) Indian affairs department.

22 C. Advisory members of the sustainable economic
23 development subgroup shall be appointed by the co-chairs of the
24 climate leadership council and shall consist of five members of
25 the council who are not voting members of the sustainable

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1 economic development subgroup and representatives of:

- 2 (1) the state land office;
- 3 (2) tribal governments and organizations;
- 4 (3) local governments; and
- 5 (4) organizations with experience in

6 sustainable economic development planning and workforce
7 development and working with disproportionately impacted
8 communities.

9 D. The sustainable economic development subgroup
10 shall develop a sustainable development strategic plan that
11 provides specific and measurable steps to implement the
12 recommendations contained in the New Mexico clean energy
13 workforce development study commissioned by the workforce
14 solutions department and to expand economic inclusion and
15 development in the equitable attainment of net-zero emissions
16 levels by 2050 and implementation of the climate solutions
17 proposed by the council, including, as appropriate, with the
18 use of an environmental justice screening tool. The
19 sustainable development strategic plan shall:

- 20 (1) be informed by input from communities
21 across New Mexico, including, and with a focus on,
22 disproportionately impacted communities and communities likely
23 to be affected by changes in local economic activities in the
24 transition to achieving net-zero emissions levels;

- 25 (2) with input from relevant state agencies,

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1 include a plan to implement the recommendations of the New
2 Mexico clean energy workforce development study;

3 (3) identify ways to expand and diversify New
4 Mexico's economy to:

5 (a) enhance and expand sustainable
6 economic opportunity, investment and employment;

7 (b) create new and high-road employment
8 opportunities;

9 (c) diversify the state's revenue and
10 tax base to stabilize the state's budget;

11 (d) increase overall economic stability
12 and resilience of the state's economy; and

13 (e) advance the social, ecological and
14 cultural resilience of communities;

15 (4) use state procurement processes to support
16 supplied diversity and high-road employment opportunities
17 through best value contracting;

18 (5) identify methods to support communities in
19 developing short-term and long-term plans for local sustainable
20 economic development and job creation that:

21 (a) advance local community goals and
22 priorities;

23 (b) expand opportunities for local
24 employment and workforce development;

25 (c) advance economic inclusion for New

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1 Mexicans;

2 (d) create enhanced opportunities for
3 New Mexicans to access capital and resources to create and
4 expand sustainable jobs and businesses;

5 (e) support communities in expanding
6 economic opportunities in ways that are culturally appropriate
7 and affirming; and

8 (f) ensure that apprenticeship and job
9 training programs that receive state funds shall be accessible
10 to individuals with limited English proficiency; and

11 (6) advise and work with state agencies to
12 implement the sustainable development strategic plan with the
13 goal of expanding sustainable economic opportunity in New
14 Mexico.

15 E. The sustainable economic development subgroup
16 shall provide an annual report, in conjunction with the annual
17 report of the council pursuant to Section 4 of the Climate
18 Solutions Act, to the governor and the appropriate interim
19 legislative committees beginning no later than September 15,
20 2021, and every year thereafter on September 15. The report
21 shall include progress on implementation of the recommendations
22 of the New Mexico clean energy workforce development study,
23 identify legislative changes needed to implement the statewide
24 strategy, including identified sustainable economic solutions,
25 and provide other recommendations to implement the statewide

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1 strategy.

2 SECTION 6. [NEW MATERIAL] STATEWIDE GREENHOUSE GAS
3 EMISSIONS REDUCTIONS--POLICY.--

4 A. The state shall achieve:

5 (1) quantifiable and enforceable statewide
6 greenhouse gas emissions reductions that are equivalent to at
7 least fifty percent below 2005 levels by 2030 and net-zero
8 emissions by 2050; and

9 (2) at least a sixty percent reduction in
10 methane, carbon dioxide and volatile organic compound emissions
11 from the oil and gas sector as compared to 2005 emission levels
12 by 2030.

13 B. An agency may use a later baseline year for
14 reductions from the oil and gas sector to ensure the quality of
15 emissions data if the agency increases the reduction target
16 proportionately to the size of the sector in the new baseline
17 year as compared to 2005 to meet the statewide emissions
18 reductions pursuant to Subsection A of this section.

19 SECTION 7. [NEW MATERIAL] STATE AGENCIES--RULEMAKING.--

20 A. No later than September 30, 2022, a state
21 agency, or rulemaking body that has the authority to adopt
22 rules for a state agency, shall identify the climate solutions
23 that are consistent with the state agency's area of
24 jurisdiction and shall promulgate rules or enact policies,
25 programs or partnerships to implement the identified climate

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1 solutions and support resilience and mitigation. Rules adopted
2 pursuant to this subsection and Subsection C of this section:

3 (1) shall ensure the reduction of greenhouse
4 gas emissions across geographic areas and economic sectors of
5 the state;

6 (2) shall require immediate, reasonable and
7 consistent progress toward the greenhouse gas emissions
8 reductions established in Section 6 of the Climate Solutions
9 Act, taking into account early reductions of emissions greater
10 than the reductions required in determining whether the
11 requirements of a consistent emissions reductions pathway have
12 cumulatively been met;

13 (3) shall prioritize strategies to reduce air
14 pollution emissions in, and their impacts on,
15 disproportionately impacted communities and Indian nations,
16 tribes and pueblos in New Mexico;

17 (4) may include regulatory strategies that are
18 being implemented in another jurisdiction, and a state agency
19 may coordinate with another jurisdiction to reduce greenhouse
20 gas emissions; provided that reductions in net greenhouse gas
21 emissions that occur under coordinated programs shall only be
22 accounted for if the implementing rules of each coordinated
23 jurisdiction are sufficiently rigorous to ensure the integrity
24 of the reductions in greenhouse gas emissions in the
25 atmosphere;

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1 (5) shall account for and include under the
2 statewide emissions limit emissions that occur as a result of
3 electricity and fuels imported into the state, regardless of
4 where they occur; and

5 (6) shall be amended over time to ensure
6 timely progress toward the emissions reductions established by
7 Section 6 of the Climate Solutions Act and cumulative
8 achievement of the associated emission reduction pathway, and
9 to ensure that the other requirements of this subsection are
10 being met.

11 B. To the extent relevant to a state agency's
12 statutory authority, a state agency, or a state agency's
13 rulemaking body, shall promulgate rules and policies pursuant
14 to Subsection A of this section that:

15 (1) create incentives to reach emissions
16 limits early, create high-road employment and reduce barriers
17 to implementing climate solutions and developing a sustainable
18 economy while promoting equity;

19 (2) ensure that climate risks, impacts,
20 mitigation, and harmful emissions reductions are fully
21 considered and accounted for in state programs, planning,
22 investments, infrastructure and natural resource planning and
23 management;

24 (3) increase energy efficiency statewide,
25 through building and industry standards, incentives for

1 installing energy-efficient appliances and fixtures, in
2 particular in low-income communities, utilizing renewable
3 energy sources, contracting for the purchase of renewable
4 energy and other energy conservation and efficiency measures;

5 (4) optimize building performance, including
6 by adopting and implementing requirements and incentives for
7 high-performance, sustainable building design, construction,
8 operation, management, maintenance and deconstruction and
9 reducing the consumption of energy, water and materials;

10 (5) reduce emissions from vehicles by
11 optimizing vehicle fleets and travel, increasing public transit
12 options, increasing the use of alternative fuel vehicles,
13 increasing the use and availability of low- and zero-emitting
14 vehicles as allowed under Section 177 of the federal Clean Air
15 Act and using regulatory frameworks that are at least as
16 stringent as applicable federal law;

17 (6) enhance carbon sequestration through
18 natural processes and explore permanent geologic sequestration
19 from industrial sources;

20 (7) eliminate waste and prevent pollution by,
21 among other things, minimizing the generation of waste and
22 pollutants, diverting more waste for beneficial use, reducing
23 the purchase and use of paper and single-use plastics,
24 increasing the use of compostable and organic materials and
25 decreasing the use of chemicals;

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1 (8) improve the resilience of water supplies,
2 including by reducing water consumption, improving water
3 efficiencies, implementing resilient water management
4 strategies, promoting water reuse and ensuring that climate
5 change impacts and risks are fully considered in state water
6 management decisions;

7 (9) provide data, science, tools and support
8 to communities to plan for and implement strategies to foster
9 climate resilience and mitigation, including planning with
10 community and industry partners and through coordination of
11 state research, higher education, public education, cultural
12 affairs and extension programs;

13 (10) require the use of project labor
14 agreements or community workforce agreements for public or
15 publicly regulated contracts or investments; and

16 (11) establish supplier diversity targets and
17 implementation plans.

18 C. In addition to the provisions of Subsection A of
19 this section, the department of environment, pursuant to rules
20 adopted by the environmental improvement board by September 30,
21 2022, and amended as needed, shall ensure that the state
22 attains quantifiable, enforceable reductions in greenhouse gas
23 emissions to meet the statewide emissions reductions
24 established in Section 6 of the Climate Solutions Act and
25 shall, within its statutory authority, address any deficit in

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1 achieving the required emissions reductions statewide. The
2 environmental improvement board's rules:

3 (1) shall include and provide for the
4 execution of protocols:

5 (a) for the department of environment to
6 track all statewide greenhouse gas and air pollutant emissions,
7 quantify emissions from fuels extracted and exported from New
8 Mexico and track the reductions of emissions of greenhouse
9 gases and other harmful pollutants that have been achieved
10 through the implementation of state agency rules pursuant to
11 the Climate Solutions Act;

12 (b) for the department of environment to
13 track the impacts of current emissions of air pollutants on
14 disproportionately impacted communities and certify that the
15 state is cumulatively meeting or exceeding the reductions
16 required by the consistently declining emissions reduction
17 pathway pursuant to Paragraph (2) of Subsection A of this
18 section; and

19 (c) for how state agencies provide
20 information on a consistent and timely basis to the council for
21 inclusion in the council's annual report required by Subsection
22 D of Section 4 of the Climate Solutions Act; and

23 (2) may take into account rules that other
24 state agencies have adopted and that remain in effect, to the
25 extent that those rules require quantifiable and enforceable

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1 reductions of greenhouse gas emissions.

2 D. In addition to the provisions of Subsection A of
3 this section, by September 30, 2021, the general services
4 department shall, to the extent authorized within the agency's
5 statutory authority, adopt procurement rules for climate
6 solutions projects to ensure that all New Mexico workers,
7 especially in disproportionately impacted communities, have
8 opportunities to access the jobs created by the implementation
9 of climate solutions, identify ways to ensure that all New
10 Mexicans have an opportunity to participate in governmental
11 procurement for climate solutions projects and consider the use
12 of incentives to achieve inclusion of all interested New
13 Mexicans. If the general services department concludes that
14 additional legislative authority is needed to implement the
15 sustainable development strategic plan developed by the
16 sustainable economic development subgroup, it shall identify
17 the legislative authority needed in the report required
18 pursuant to Subsection E of Section 5 of the Climate Solutions
19 Act.

20 E. In addition to the provisions of Subsection A of
21 this section, by September 30, 2021, the workforce solutions
22 department, to the extent authorized within the agency's
23 statutory authority, shall adopt workforce development rules
24 for climate solutions projects to ensure that all New Mexico
25 workers have opportunities to access jobs created by the

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1 implementation of climate solutions and that a sustainable
2 economy is created for all workers, with priority given to
3 disproportionately impacted communities. The workforce
4 solutions department shall develop training and registered
5 apprenticeship opportunities for all New Mexicans interested in
6 training for jobs created through the achievement of greenhouse
7 gas emissions reductions and shall consider the use of
8 incentives to achieve inclusion of all interested New Mexicans.
9 If the workforce solutions department concludes that additional
10 legislative authority is needed to implement the sustainable
11 development strategic plan developed by the sustainable
12 economic development subgroup, it shall identify the
13 legislative authority needed in the report required pursuant to
14 Subsection E of Section 5 of the Climate Solutions Act.

15 SECTION 8. Section 71-7-6 NMSA 1978 (being Laws 2004,
16 Chapter 55, Section 6) is amended to read:

17 "71-7-6. CLEAN ENERGY GRANTS PROGRAM.--

18 A. The secretary shall establish the clean energy
19 grants program to provide clean energy grants to:

- 20 (1) municipalities and county governments;
- 21 (2) state agencies;
- 22 (3) state universities;
- 23 (4) public schools;
- 24 (5) post-secondary educational institutions;

25 and

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1 (6) Indian nations, tribes and pueblos.

2 B. The climate leadership council pursuant to the
3 Climate Solutions Act shall provide recommendations to the
4 secretary and set priorities for expenditures from the clean
5 energy grants fund, when funds are available. The secretary
6 may make grants from the fund for physical projects utilizing
7 clean energy technologies and clean energy education, technical
8 assistance and training programs. The department may use no
9 more than one hundred thousand dollars (\$100,000) from the fund
10 for the administration of the grants program and to conduct
11 research or studies directly related to the Advanced Energy
12 Technologies Economic Development Act.

13 C. The department may adopt rules establishing the
14 application procedure and required qualifications of projects.
15 No single entity shall receive greater than one hundred
16 thousand dollars (\$100,000) from the fund. Factors that may be
17 considered in approving or denying disbursements from the fund
18 are the:

19 (1) [~~the~~] geographic area of the state in
20 which the project is to be conducted in relation to other
21 projects;

22 (2) percentage of cash or in-kind
23 contributions applied to the total project;

24 (3) [~~the~~] extent to which the project
25 incorporates an innovative new technology or an innovative

1 application of an existing technology;

2 (4) ~~[the]~~ degree to which the project will
3 reduce the entity's energy-related expenditures;

4 (5) ~~[the]~~ degree to which the project fosters
5 the general public's, students' or a specific government or
6 industry sector's overall understanding and appreciation of
7 clean energy technologies; and

8 (6) ~~[the]~~ extent to which the project
9 stimulates in-state economic development, including jobs
10 creation, and further development of a commercial market for
11 clean energy technologies.

12 D. Except as provided otherwise in this section,
13 the department shall disburse:

14 (1) no less than three hundred thousand
15 dollars (\$300,000) to municipalities and county governments;

16 (2) no less than three hundred thousand
17 dollars (\$300,000) to state universities and post-secondary
18 educational institutions;

19 (3) no less than three hundred thousand
20 dollars (\$300,000) to Indian nations, tribes and pueblos; and

21 (4) no more than two hundred thousand dollars
22 (\$200,000) to state agencies and public schools.

23 E. The minimum disbursements designated in this
24 section may be amended by the department if an insufficient
25 number of qualified projects are applied for by entities

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1 seeking grant funding within a particular category or
2 categories.

3 F. The department shall report on disbursements
4 made from the fund to the legislative finance committee prior
5 to each regular legislative session. The report shall include:

6 (1) a list of recipients receiving
7 disbursements;

8 (2) the amount of each disbursement;

9 (3) the date of each disbursement;

10 (4) a description of each project or expansion
11 funded with a disbursement;

12 (5) a description of each project's
13 contribution to the state's knowledge and use of clean energy
14 technologies; and

15 (6) a description of the extent to which the
16 grants program is [~~benefitting~~] benefiting the state's
17 environment, public health and economic development."

18 SECTION 9. Section 74-2-2 NMSA 1978 (being Laws 1967,
19 Chapter 277, Section 2, as amended) is amended to read:

20 "74-2-2. DEFINITIONS.--As used in the Air Quality Control
21 Act:

22 A. "air contaminant" means a substance, including
23 any particulate matter, fly ash, dust, fumes, gas, mist, smoke,
24 vapor, micro-organisms, radioactive material, any combination
25 thereof or any decay or reaction product thereof;

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1 B. "air pollution" means the emission, except
2 emission that occurs in nature, into the outdoor atmosphere of
3 one or more air contaminants in quantities and of a duration
4 that may with reasonable probability injure human health or
5 animal or plant life or as may unreasonably interfere with the
6 public welfare, visibility or the reasonable use of property;

7 C. "department" means the department of
8 environment;

9 D. "director" means the administrative head of a
10 local agency;

11 E. "emission limitation" or "emission standard"
12 means a requirement established by the environmental
13 improvement board or the local board, the department, the local
14 authority or the local agency or pursuant to the federal act
15 that limits the quantity, rate or concentration, or combination
16 thereof, of emissions of air contaminants on a continuous
17 basis, including any requirements relating to the operation or
18 maintenance of a source to assure continuous reduction;

19 F. "federal act" means the federal Clean Air Act,
20 its subsequent amendments and successor provisions;

21 G. "federal standard of performance" means a
22 standard of performance, emission limitation or emission
23 standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

24 H. "hazardous air pollutant" means an air
25 contaminant that has been listed as a hazardous air pollutant

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1 pursuant to the federal act;

2 I. "local agency" means the administrative agency
3 established by a local authority pursuant to Paragraph (2) of
4 Subsection A of Section 74-2-4 NMSA 1978;

5 J. "local authority" means any of the following
6 political subdivisions of the state that have, by following the
7 procedure set forth in Subsection A of Section 74-2-4 NMSA
8 1978, assumed jurisdiction for local administration and
9 enforcement of the Air Quality Control Act:

10 (1) a county that was a class A county as of
11 January 1, 1980; or

12 (2) a municipality with a population greater
13 than one hundred thousand located within a county that was a
14 class A county as of January 1, 1980;

15 K. "local board" means a municipal, county or joint
16 air quality control board created by a local authority;

17 L. "mandatory class I area" means any of the
18 following areas in this state that were in existence on August
19 7, 1977:

20 (1) national wilderness areas that exceed five
21 thousand acres in size; and

22 (2) national parks that exceed six thousand
23 acres in size;

24 M. "modification" means a physical change in, or
25 change in the method of operation of, a source that results in

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~~[bracketed material]~~ = delete

1 an increase in the potential emission rate of a regulated air
2 contaminant emitted by the source or that results in the
3 emission of a regulated air contaminant not previously emitted,
4 but does not include:

5 (1) a change in ownership of the source;

6 (2) routine maintenance, repair or
7 replacement;

8 (3) installation of air pollution control
9 equipment, and all related process equipment and materials
10 necessary for its operation, undertaken for the purpose of
11 complying with regulations adopted by the environmental
12 improvement board or the local board or pursuant to the federal
13 act; or

14 (4) unless previously limited by enforceable
15 permit conditions:

16 (a) an increase in the production rate,
17 if such increase does not exceed the operating design capacity
18 of the source;

19 (b) an increase in the hours of
20 operation; or

21 (c) use of an alternative fuel or raw
22 material if, prior to January 6, 1975, the source was capable
23 of accommodating such fuel or raw material or if use of an
24 alternate fuel or raw material is caused by a natural gas
25 curtailment or emergency allocation or ~~[an other]~~ another lack

.218006.3

underscoring material = new
~~[bracketed material]~~ = delete

1 of supply of natural gas;

2 N. "nonattainment area" means for an air
3 contaminant an area that is designated "nonattainment" with
4 respect to that contaminant within the meaning of Section
5 107(d) of the federal act;

6 O. "person" includes an individual, partnership,
7 corporation, association, the state or political subdivision of
8 the state and any agency, department or instrumentality of the
9 United States and any of their officers, agents or employees;

10 P. "potential emission rate" means the emission
11 rate of a source at its maximum capacity to emit a regulated
12 air contaminant under its physical and operational design,
13 provided any physical or operational limitation on the capacity
14 of the source to emit a regulated air contaminant, including
15 air pollution control equipment and restrictions on hours of
16 operation or on the type or amount of material combusted,
17 stored or processed, shall be treated as part of its physical
18 and operational design only if the limitation or the effect it
19 would have on emissions is enforceable by the department or the
20 local agency pursuant to the Air Quality Control Act or the
21 federal act;

22 Q. "regulated air contaminant" means an air
23 contaminant, the emission or ambient concentration of which is
24 regulated pursuant to the Air Quality Control Act or the
25 federal act;

.218006.3

underscored material = new
[bracketed material] = delete

1 R. "secretary" means the secretary of environment;

2 S. "significant deterioration" means an increase in
3 the ambient concentrations of an air contaminant above the
4 levels allowed by the federal act or federal regulations for
5 that air contaminant in the area within which the increase
6 occurs;

7 T. "source" means a structure, building, equipment,
8 facility, installation or operation [~~that emits or may emit an~~]
9 at, from or by reason of which an air contaminant is emitted;

10 U. "standard of performance" means a requirement of
11 continuous emission reduction, including any requirement
12 relating to operation or maintenance of a source to assure
13 continuous emission reduction;

14 V. "state implementation plan" means a plan
15 submitted by New Mexico to the federal environmental protection
16 agency pursuant to 42 U.S.C. Section 7410; and

17 W. "toxic air pollutant" means an air contaminant,
18 except a hazardous air pollutant, classified by the
19 environmental improvement board or the local board as a toxic
20 air pollutant."

21 SECTION 10. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2021.

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