

HOUSE BILL 4: HYDROGEN HUB DEVELOPMENT ACT

TAX INCENTIVES FOR HYDROGEN FACILITIES, EQUIPMENT, PRODUCTION, DISTRIBUTION, REFUELING, VEHICLES & ELECTRIC GENERATING FACILITIES¹

Carbon Intensity (CI) in kg CO₂-eq per kg of H₂

Hydrogen Hub Incentives

Statewide Hydrogen Incentives

Qualified hydrogen
CI less than 4²

- Construct before January 1, 2031
- Production income tax credits: \$0.10/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 33%

- Construct before January 1, 2031
- Production income tax credits: \$0.05/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 33%

Clean hydrogen
CI less than 2

- Construct before January 1, 2033
- Production income tax credits: \$0.20/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 66%

- Construct before January 1, 2033
- Production income tax credits: \$0.10/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 66%

Carbon-negative hydrogen
CI less than 0

- Construct before January 1, 2035
- Production income tax credits: \$0.30/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 100%

- Construct before January 1, 2035
- Production income tax credits: \$0.15/kg of hydrogen produced³
- Gross receipts/compensating tax deduction: 100%

1. Hydrogen electric generating facilities must also meet an emission limit of 375 pounds of carbon dioxide per megawatt hour.
2. Prior to July 1, 2028, CI equal to or less than 4; after July 1, 2028, CI equal to or less than 3.
3. Capped at 17 million kilograms.

HOUSE BILL 4: HYDROGEN HUB DEVELOPMENT ACT

TAX INCENTIVES FOR HYDROGEN FACILITIES, EQUIPMENT, PRODUCTION, DISTRIBUTION, REFUELING, VEHICLES & ELECTRIC GENERATING FACILITIES

Hydrogen Electric Generating Facilities

Hydrogen Hub Incentives

Geared to base load power supply

- Construct before January 1, 2033
- Production income tax credits: \$.30/kg of hydrogen produced¹
- Gross receipts/compensating tax deduction: 100%

Statewide Hydrogen Incentives

Geared to non-base load power supply

- Construct before January 1, 2033
- Production income tax credits: \$.15/kg of hydrogen produced¹
- Gross receipts/compensating tax deduction: 100%

✓ Hydrogen electric generating facilities must also meet an emission limit of 375 pounds of carbon dioxide per megawatt hour to secure tax incentives.

✓ Must use 100% clean hydrogen to generate electricity.

✓ Permanent sequestration of carbon dioxide from the production of hydrogen.

✓ Must use independently certified responsibly sourced gas.

1. Capped at 17 million kilograms.

House Bill 4 - Hydrogen Hub Development Act

Version .221299.15

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HOUSE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE HYDROGEN HUB DEVELOPMENT ACT; PROVIDING FOR THE DESIGNATION OF HYDROGEN HUBS; ALLOWING PUBLIC PARTNERS TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS TO FACILITATE DEVELOPMENT OF HYDROGEN HUB PROJECTS; CREATING THE HYDROGEN HUB DEVELOPMENT BOARD AND SPECIFYING POWERS; ESTABLISHING CRITERIA FOR APPROVAL OF HYDROGEN HUB PROJECTS; CREATING THE HYDROGEN HUB PROJECT FUND; AUTHORIZING GRANTS, LOANS AND REVENUE BONDS; SPECIFYING POWERS AND DUTIES OF THE NEW MEXICO FINANCE AUTHORITY; REQUIRING REPORTS; CREATING THE HYDROGEN PRODUCTION AND ENERGY GENERATION INCOME TAX CREDIT, THE HYDROGEN PRODUCTION AND ENERGY GENERATION CORPORATE INCOME TAX CREDIT AND GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR HYDROGEN-RELATED SALES AND USE; SPECIFYING ADDITIONAL DUTIES OF THE DEPARTMENT OF ENVIRONMENT; ADDING AN EXEMPTION TO THE PROCUREMENT CODE; AMENDING

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1 DEFINITIONS IN THE RURAL ELECTRIC COOPERATIVE ACT AND THE
2 RENEWABLE ENERGY ACT; DECLARING AN EMERGENCY.

3

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

5 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
6 through 14 of this act may be cited as the "Hydrogen Hub
7 Development Act".

8 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Hydrogen Hub Development Act:

10 A. "authority" means the New Mexico finance
11 authority;

12 B. "board" means the hydrogen hub development
13 board;

14 C. "clean hydrogen" means whichever of the
15 following results in the lower carbon intensity:

16 (1) hydrogen produced with a carbon intensity
17 equal to or less than two kilograms of carbon dioxide
18 equivalent per kilogram of hydrogen produced; or

19 (2) hydrogen meeting the standards for clean
20 hydrogen developed pursuant to Section 822 of the federal
21 Energy Policy Act of 2005, as that section may be amended or
22 renumbered;

23 D. "clean hydrogen electric generation facility"
24 means an electric power generation facility located in New
25 Mexico that uses one hundred percent hydrogen to generate

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1 electricity, whose electrical output can be controlled to aid
2 in balancing electric supply and demand and emits no more than
3 three hundred seventy-five pounds of carbon dioxide equivalent
4 per megawatt hour;

5 E. "decarbonization" means the elimination of
6 carbon or other greenhouse gas emissions;

7 F. "greenhouse gas emissions" means the release
8 into the atmosphere of any gas, including carbon dioxide and
9 methane but excluding water vapor, that contributes to climate
10 change through the trapping of heat in the atmosphere;

11 G. "hard-to-decarbonize industry" means an industry
12 for which there are not yet easily adopted, cost-effective
13 alternative technologies to eliminate greenhouse gas emissions;

14 H. "hydrogen hub" means a distinct geographic area
15 approved by the board pursuant to Subsection C of Section 6 of
16 the Hydrogen Hub Development Act within which proposed hydrogen
17 hub projects may be approved for grants or loans;

18 I. "hydrogen hub project" means a project creating
19 or modifying infrastructure relating to the generation of power
20 and the production, storage, transport and consumption of
21 hydrogen, including the conversion of methane, natural gas or
22 water and the sequestration of carbon dioxide;

23 J. "permanent sequestration of carbon dioxide"
24 means carbon dioxide injected pursuant to a monitoring and
25 verification plan approved pursuant to Code of Federal

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1 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
2 RR as follows:

3 (1) prior to January 1, 2030, any source
4 category defined in Code of Federal Regulations Title 40,
5 chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;
6 and

7 (2) on or after January 1, 2030, any source
8 category defined in Code of Federal Regulations Title 40,
9 chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440,
10 Paragraphs (a) and (b), excluding any well or group of wells
11 where a carbon dioxide stream is being injected in subsurface
12 geologic formations to enhance the recovery of oil or natural
13 gas;

14 K. "private partner" means an individual, a foreign
15 or domestic corporation, a general partnership, a limited
16 liability company, a limited partnership, a joint venture, a
17 business trust, a public benefit corporation, a nonprofit
18 entity or other private business entity or combination thereof;

19 L. "public partner" means the state and its
20 branches, agencies, departments, boards, instrumentalities or
21 institutions and all political subdivisions of the state and
22 their agencies, instrumentalities and institutions, including a
23 department, an agency, an institution of higher education, a
24 board or a commission;

25 M. "public-private partnership" means an

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1 arrangement between one or more public partners and one or more
2 private partners for the development of a hydrogen hub project
3 pursuant to the Hydrogen Hub Development Act;

4 N. "public-private partnership agreement" means a
5 contract between one or more public partners and one or more
6 private partners in connection with the development of a
7 hydrogen hub project;

8 O. "responsibly sourced gas" means gas used or
9 purchased to produce hydrogen that either:

10 (1) meets the standard for methane gas allowed
11 to be used in hydrogen hub projects as promulgated by the
12 federal government pursuant to Title 8 of the federal Energy
13 Policy Act of 2005; or

14 (2) in the absence of a federal standard, is
15 certified as a responsibly sourced gas by an independent
16 organization with the nationally recognized expertise to
17 provide such certification and such independent organization
18 and certification are approved by the department of
19 environment;

20 P. "revenue" means all revenue, income, earnings,
21 user fees, lease payments or other service payments that
22 support the development of a hydrogen hub project, including
23 money received as a grant or otherwise from the federal
24 government, a public partner or any agency or instrumentality
25 of the federal government; and

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1 Q. "user fees" means rates, fees or other charges
2 imposed by the public partner or the private partner for use of
3 all or part of a hydrogen hub project.

4 SECTION 3. [NEW MATERIAL] HYDROGEN HUBS--DESIGNATION--
5 CRITERIA.--

6 A. A private partner or a public partner may
7 propose a specific geographic area for designation as a
8 hydrogen hub pursuant to Subsection C of Section 6 of the
9 Hydrogen Hub Development Act.

10 B. A proposed hydrogen hub shall meet as many of
11 the following criteria as feasible at the time of designation:

12 (1) reasonable access to the fuel source
13 needed to support a proposed hydrogen hub project using:

14 (a) renewable energy sources; or
15 (b) a natural gas pipeline or natural
16 gas or methane gas generator within twenty-five miles of the
17 proposed hydrogen hub and with a volume of responsibly sourced
18 gas sufficient to supply one hundred fifty percent of the
19 volume necessary to support a proposed hydrogen hub project;

20 (2) access within a four-hour travel period to
21 a designated federal interstate highway or other four-lane
22 vehicular highway;

23 (3) access within a four-hour travel period to
24 a railroad line providing access to major markets on the west
25 coast, gulf coast and east coast;

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1 (4) reasonable access to a regional power grid
2 suitable for the export of power generated by a hydrogen hub
3 project;

4 (5) suitability for the use of renewable
5 energy sources such as solar energy and wind power, including
6 access to open land, sufficient to produce at least fifty
7 percent of the power needed at the proposed hydrogen hub;

8 (6) geologic suitability and capacity for the
9 permanent sequestration of carbon dioxide produced at the
10 proposed hydrogen hub;

11 (7) existing infrastructure suitable for
12 redevelopment through a hydrogen hub project;

13 (8) existing or proposed infrastructure for
14 the use of hydrogen generated through a hydrogen hub project;

15 (9) availability of a qualified labor pool,
16 including reemployment of displaced energy transition
17 personnel;

18 (10) feasibility of the establishment of a
19 facility to facilitate the transfer of technology necessary for
20 the implementation of hydrogen hub projects;

21 (11) beneficial impact on economically
22 disadvantaged and distressed communities, including those
23 impacted by the closure of coal and other fossil fuel
24 industries;

25 (12) feasibility of suitable evacuation plans

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1 for hydrogen hub projects that generate power;

2 (13) availability of a public partner capable
3 of coordinating development activities within the proposed
4 hydrogen hub;

5 (14) potential for participation in a regional
6 or multistate effort to develop hydrogen-related industries;
7 and

8 (15) ability to use state economic development
9 incentive programs for hydrogen hub projects, including:

10 (a) improvement districts pursuant to
11 Chapter 3, Article 33 NMSA 1978;

12 (b) the Public Improvement District Act;

13 (c) the Tax Increment for Development
14 Act;

15 (d) the Industrial Revenue Bond Act;

16 (e) the Local Economic Development Act;

17 (f) the Renewable Energy Financing

18 District Act; and

19 (g) the Infrastructure Development Zone
20 Act.

21 SECTION 4. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP
22 AGREEMENTS--APPROVAL REQUIREMENTS--RESTRICTIONS.--

23 A. To provide economic and administrative
24 efficiencies in connection with the development of hydrogen hub
25 projects, a public partner is authorized to enter into public-

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1 private partnership agreements.

2 B. Prior to entering into negotiations regarding
3 the use of a public-private partnership agreement as a method
4 of implementing a proposed hydrogen hub project, the public
5 partner shall publish in a newspaper of general circulation its
6 interest in considering such an agreement, and such publication
7 shall include a description of the scope of the proposed
8 hydrogen hub project.

9 C. Prior to entering into a public-private
10 partnership agreement, a public partner shall:

11 (1) undertake a cost-benefit analysis of a
12 public-private partnership hydrogen hub project in comparison
13 with a traditional public partner-managed project;

14 (2) demonstrate the potential of the proposed
15 hydrogen hub project to reduce carbon emissions, especially in
16 hard-to-decarbonize industries;

17 (3) conduct a public hearing relating to the
18 proposed public-private partnership held in accordance with the
19 Open Meetings Act;

20 (4) demonstrate that the proposed hydrogen hub
21 project serves an important public purpose and fulfills an
22 important public need; and

23 (5) demonstrate that the proposed hydrogen hub
24 project will comply with applicable state and federal law.

25 D. A public-private partnership agreement shall:

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1 (1) define the roles and responsibilities of
2 the public partners and the private partners;

3 (2) provide clawback or recapture provisions
4 that protect the public investment in the event of a default on
5 the agreement;

6 (3) provide a finance plan detailing the
7 financial contributions and obligations of the public and
8 private partners;

9 (4) require a private partner to provide, or
10 cause to be provided, performance and payment bonds as required
11 pursuant to Section 13-4-18 NMSA 1978;

12 (5) require a private partner to provide
13 guarantees, letters of credit or other acceptable forms of
14 security, the amount of which may be less than one hundred
15 percent of the value of the contract involved based on the
16 determination of the public partner, or for public-private
17 partnership agreements requiring board approval, based on the
18 determination by the board;

19 (6) specify how revenue will be collected,
20 accounted for and audited;

21 (7) specify how debts incurred on behalf of
22 the public partner or private partner will be repaid;

23 (8) address how the public partners and the
24 private partners will share management and the risks of the
25 hydrogen hub project;

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1 (9) provide that, in the event of an uncured
2 default, the public partner may:

3 (a) elect to take over the hydrogen hub
4 project, including the succession of all right, title and
5 interest in the hydrogen hub project, subject to any liens on
6 revenue previously granted by the private partner; and

7 (b) terminate the public-private
8 partnership and exercise any other rights and remedies that may
9 be available;

10 (10) specify the term of the public-private
11 partnership agreement, which shall not exceed thirty years;

12 (11) limit a private partner from seeking
13 injunctive or other equitable relief to in any way restrict a
14 public partner from developing, constructing or maintaining a
15 hydrogen hub project, except that the public-private
16 partnership agreement may provide for reasonable compensation
17 to the private partner for the adverse effect resulting from
18 development, construction, operation and maintenance of another
19 hydrogen hub project of the public partner;

20 (12) provide for the protection of proprietary
21 information of the private partner; and

22 (13) provide provisions for termination of the
23 public-private partnership agreement, including the cessation
24 of the powers and duties of the private partner.

25 E. A public-private partnership agreement for a

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1 hydrogen hub project shall not become effective until it is
2 approved by the board pursuant to Subsection D of Section 6 of
3 the Hydrogen Hub Development Act.

4 SECTION 5. [NEW MATERIAL] HYDROGEN HUB DEVELOPMENT
5 BOARD--CREATED--MEMBERSHIP.--

6 A. The "hydrogen hub development board" is created.
7 The department of environment shall provide necessary
8 administrative services to the board.

9 B. The board is composed of:

10 (1) the secretary of economic development or
11 the secretary's designee;

12 (2) the secretary of finance and
13 administration or the secretary's designee;

14 (3) the secretary of energy, minerals and
15 natural resources or the secretary's designee;

16 (4) the secretary of environment or the
17 secretary's designee;

18 (5) the secretary of taxation and revenue or
19 the secretary's designee;

20 (6) the chief executive officer of the
21 authority or the chief executive officer's designee; and

22 (7) five public members appointed by the New
23 Mexico legislative council who shall have experience in
24 architecture, the technology and analysis of reductions in
25 greenhouse gas emissions, the development and related

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1 engineering of hydrogen hub projects, project finance, public
2 finance or bond and finance law.

3 C. The public members appointed initially shall
4 draw lots for staggered terms in such a way that two members
5 shall serve for six years, two members shall serve for four
6 years and one member shall serve for two years. Thereafter,
7 the public members shall serve for six-year terms. A vacancy
8 in a term of a public member of the board shall be filled by
9 the New Mexico legislative council for the remainder of the
10 original term.

11 D. The members shall select a chair, who shall be a
12 public member and who shall serve a term of two years.

13 E. Members who are not public employees are
14 entitled to per diem and mileage as provided in the Per Diem
15 and Mileage Act but shall receive no other compensation,
16 perquisite or allowance.

17 F. A member of the board shall not participate in
18 or influence a decision by the board in which that member has a
19 conflict of interest, pecuniary interest or other disqualifying
20 interest respecting a public-private partnership agreement or a
21 hydrogen hub project that is considered by the board. All
22 members of the board shall certify annually and in writing
23 compliance with this subsection.

24 SECTION 6. [NEW MATERIAL] HYDROGEN HUB DEVELOPMENT
25 BOARD--POWERS--DUTIES.--The board has the following powers and

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1 duties:

2 A. meet quarterly and at such other times as deemed
3 necessary by the chair;

4 B. develop forms of applications for approval of
5 public-private partnerships;

6 C. review and approve, modify or disapprove
7 specific geographic areas to be designated as hydrogen hubs;

8 D. review and approve or disapprove proposed
9 public-private partnership agreements for a hydrogen hub
10 project;

11 E. certify the need for the issuance of revenue
12 bonds and refunding bonds by the authority;

13 F. adopt and promulgate rules establishing the
14 application process and criteria for the approval of public-
15 private partnership agreements in accordance with the
16 provisions of the State Rules Act;

17 G. approve or disapprove applications for grants or
18 loans from the hydrogen hub project fund for hydrogen hub
19 projects; and

20 H. take all other action necessary to implement the
21 Hydrogen Hub Development Act, including entering into joint
22 powers agreements and retaining legal counsel and experts when
23 appropriate.

24 SECTION 7. [NEW MATERIAL] HYDROGEN HUB PROJECTS--CRITERIA
25 FOR APPROVAL.--

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1 A. If the proposed hydrogen hub project generates
2 hydrogen, the board shall approve a proposed public-private
3 partnership agreement only if it finds the proposed project:

4 (1) is a clean hydrogen electric generation
5 facility or will generate or use only clean hydrogen;

6 (2) provides for the permanent sequestration
7 of carbon dioxide created in the production of hydrogen by the
8 proposed hydrogen hub project, either by the creator of the
9 carbon dioxide or by a purchaser of the carbon dioxide; and

10 (3) provides certification that methane gas
11 produced or purchased for the generation of hydrogen is
12 responsibly sourced gas.

13 B. If the proposed hydrogen hub project generates
14 hydrogen, in deciding whether to approve a proposed
15 public-private partnership agreement for a hydrogen hub
16 project, in addition to the criteria set forth in Subsection C
17 of this section, the board shall consider at least the
18 following criteria:

19 (1) whether hydrogen is a cost-effective
20 decarbonization solution for the proposed hydrogen hub project;

21 (2) the cost of alternative decarbonization
22 technologies;

23 (3) the net environmental impact of the
24 proposed hydrogen hub project, including the potential for
25 cost-effective decarbonization of electric generation,

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1 industrial manufacturing and transportation and the impact on
2 fresh water reserves; and

3 (4) the opportunities for the proposed
4 hydrogen hub project to participate in a regional energy or
5 power market.

6 C. For all proposed hydrogen hub projects, in
7 deciding whether to approve a proposed public-private
8 partnership agreement for a hydrogen hub project, the board
9 shall consider at least the following criteria:

10 (1) the technological feasibility of the
11 proposed hydrogen hub project and the ability of the private
12 partners and public partners to successfully implement the
13 proposed hydrogen hub project;

14 (2) the projected time frame for completion of
15 the proposed hydrogen hub project;

16 (3) the impact of the proposed hydrogen hub
17 project on the local employment base and on an economically
18 distressed community;

19 (4) the projected impact of the proposed
20 hydrogen hub project on the taxable revenue for the state and
21 relevant municipalities and counties;

22 (5) the financial feasibility of the proposed
23 hydrogen hub project, including the cost of the hydrogen hub
24 project, the projected financial income from the proposed
25 hydrogen hub project and the public-private partnership's

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1 ability to leverage grants or loans from the state;

2 (6) the potential qualification of the
3 proposed hydrogen hub project for state and federal grants,
4 loans and tax incentives;

5 (7) the possibility of state investment in the
6 proposed hydrogen hub project pursuant to Section 7-27-5.15
7 NMSA 1978; and

8 (8) the opportunities for the proposed
9 hydrogen hub project to participate in a regional hydrogen hub.

10 SECTION 8. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY--
11 DUTIES.--The authority shall:

12 A. provide staff support to the board for the
13 financial analysis of proposed hydrogen hub projects;

14 B. administer the hydrogen hub project fund;

15 C. develop forms of grant and loan applications for
16 hydrogen hub projects seeking funds from the hydrogen hub
17 project fund;

18 D. make grants and loans from the hydrogen hub
19 project fund for applications that have been approved by the
20 board pursuant to Subsection G of Section 6 of the Hydrogen Hub
21 Development Act;

22 E. adopt and promulgate rules as necessary relating
23 to the issuance of bonds for hydrogen hub projects;

24 F. upon certification by the board, issue revenue
25 bonds and refunding bonds in accordance with the provisions of

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1 the Hydrogen Hub Development Act;

2 G. fix, revise from time to time, charge and
3 collect fees and other charges in connection with making grants
4 and loans from the hydrogen hub project fund;

5 H. be compensated from the hydrogen hub project
6 fund for administrative and reimbursable costs in connection
7 with the authority's support of the board and administration of
8 the hydrogen hub project fund; and

9 I. take all other action necessary to implement the
10 Hydrogen Hub Development Act, including entering into joint
11 powers agreements with other agencies.

12 SECTION 9. [NEW MATERIAL] HYDROGEN HUB PROJECT FUND
13 CREATED--STUDY GRANTS--INFRASTRUCTURE LOANS.--

14 A. The "hydrogen hub project fund" is created
15 within the authority. The fund consists of appropriations,
16 payments of principal and interest on loans made from the fund,
17 income from investment of the fund and any other money
18 distributed or otherwise allocated to the fund. Balances in
19 the fund at the end of any fiscal year shall not revert to the
20 general fund. The fund may consist of such subaccounts as the
21 authority deems necessary to carry out the purposes of the
22 fund.

23 B. Money in the hydrogen hub project fund may be
24 used to make grants of up to two hundred fifty thousand dollars
25 (\$250,000) to a public partner for the purposes of studying the

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1 costs and benefits of entering into a public-private
2 partnership for a proposed hydrogen hub project. A private
3 partner shall provide funds that match or exceed the public
4 partner's monetary obligation for the cost of the study, as
5 required by the authority.

6 C. Money in the hydrogen hub project fund may be
7 used to provide grants and loans for financing a hydrogen hub
8 project through a public-private partnership agreement;
9 provided that:

10 (1) the private partner shall provide funds in
11 the form of capital, either equity or debt, that match or
12 exceed the public partner's monetary obligation for the public-
13 private partnership agreement, as provided by rule; and

14 (2) the public partner certifies to the board
15 that the public partner has taken all action necessary to
16 approve the public-private partnership agreement and that the
17 public-private partnership agreement contains all terms and
18 conditions required by Subsection D of Section 4 of the
19 Hydrogen Hub Development Act.

20 D. Money in the hydrogen hub project fund may be
21 used pursuant to Subsections B and C of this section only for
22 grants or loans to a public partner for a hydrogen hub project.

23 E. Money in the hydrogen hub project fund may be
24 used for grants or loans to an Indian nation, tribe or pueblo
25 that has entered into a partnership with a private partner for

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1 the development of a hydrogen hub project only if:

2 (1) the agreement between the Indian nation,
3 tribe or pueblo and the private partner is approved by the
4 board; and

5 (2) the grant or loan application is approved
6 by the board.

7 F. Money in the hydrogen hub project fund may be
8 used for administrative and reimbursable costs incurred by the
9 board, the department of environment and the authority, subject
10 to the legislative appropriation process.

11 SECTION 10. [NEW MATERIAL] REVENUE BONDING AUTHORITY.--

12 A. Upon certification of the board, the authority
13 may issue revenue bonds, the pledged revenues for which shall
14 be fees, charges, lease payments, installment sale payments or
15 other revenue sources of a hydrogen hub project for any one or
16 more of the purposes authorized by the Hydrogen Hub Development
17 Act.

18 B. The authority may pledge irrevocably any or all
19 of the revenue received by the authority to the payment of the
20 interest on and principal of revenue bonds for any of the
21 purposes authorized in the Hydrogen Hub Development Act.

22 C. In addition to the pledge of revenues to the
23 payment of revenue bonds, the authority may grant a mortgage on
24 a hydrogen hub project that has been solely financed by revenue
25 bonds to the bondholders or a trustee for the benefit of the

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1 holders of revenue bonds.

2 D. Revenue in excess of the annual principal and
3 interest due on revenue bonds secured by a pledged revenue may
4 be accumulated in a debt service reserve account. The
5 authority may appoint a commercial bank trust department to act
6 as paying agent or trustee of the revenue and to administer the
7 payment of principal of and interest on the revenue bonds.

8 E. Except as otherwise provided in the Hydrogen Hub
9 Development Act, revenue bonds:

10 (1) may have interest, principal value or any
11 part thereof payable at intervals or at maturity as may be
12 determined by the authority;

13 (2) may be subject to prior redemption at the
14 authority's option at a time and upon terms and conditions,
15 with or without the payment of a premium, as determined by the
16 authority;

17 (3) may mature at any time not exceeding
18 thirty years after the date of issuance;

19 (4) may be serial in form and maturity, may
20 consist of one bond payable at one time or in installments or
21 may be in another form determined by the authority;

22 (5) shall be sold for cash at, above or below
23 par and at a price that results in a net effective interest
24 rate that does not exceed the maximum permitted by the Public
25 Securities Act and the Public Securities Short-Term Interest

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1 Rate Act; and

2 (6) may be sold at public or negotiated sale.

3 F. At a regular or special meeting, the authority
4 may, upon receipt of a certification from the board, adopt a
5 resolution that:

6 (1) declares the necessity for issuing revenue
7 bonds;

8 (2) authorizes the issuance of revenue bonds
9 by an affirmative vote of a majority of all of the members of
10 the authority; and

11 (3) designates the sources of revenues to be
12 pledged to the repayment of the revenue bonds.

13 SECTION 11. [NEW MATERIAL] REFUNDING BOND AUTHORITY.--

14 A. Upon certification of the board, the authority
15 may issue refunding bonds for the purpose of refinancing,
16 paying and discharging all or any part of outstanding bonds for
17 the:

18 (1) acceleration, deceleration or other
19 modification of the payment of the outstanding bonds, including
20 any capitalization of any interest thereon in arrears or about
21 to become due for any period not exceeding two years from the
22 date of the refunding bonds;

23 (2) reduction of interest costs or effecting
24 other economies; or

25 (3) modification or elimination of restrictive

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1 contractual limitations pertaining to the issuance of
2 additional bonds or concerning the outstanding bonds or
3 hydrogen hub project relating to the outstanding bonds.

4 B. The authority shall pledge irrevocably for the
5 payment of interest, principal and premium, if any, on
6 refunding bonds the appropriate pledged revenues, which may be
7 pledged to an original issue of bonds.

8 C. In addition to the pledge of revenue to the
9 payment of refunding bonds, the authority may grant a mortgage
10 on a hydrogen hub project that has been solely financed by
11 revenue bonds to the bondholders or a trustee for the benefit
12 of the holders of the bonds.

13 D. Refunding bonds may be issued separately or in
14 combination in one series or more.

15 E. Refunding bonds shall be authorized by
16 resolution. Bonds that are refunded shall be paid at maturity
17 or on any permitted prior redemption date in the amounts, at
18 the time and places and, if called prior to maturity, in
19 accordance with any applicable notice provisions, all as
20 provided in the proceedings authorizing the issuance of the
21 refunded bonds or otherwise appertaining thereto, except for
22 any such bond that is voluntarily surrendered for exchange or
23 payment by the holder or owner.

24 F. The principal amount of the refunding bonds may
25 exceed the principal amount of the refunded bonds and may also

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1 be less than or the same as the principal amount of the bonds
2 being refunded if provision is duly and sufficiently made for
3 the payment of the refunded bonds.

4 G. The proceeds of refunding bonds, including
5 accrued interest and premiums appertaining to the sale of
6 refunding bonds, shall be immediately applied to the retirement
7 of the bonds being refunded or placed in escrow in a commercial
8 bank or trust company that possesses and exercises trust powers
9 and that is a member of the federal deposit insurance
10 corporation.

11 H. Refunding bonds may bear additional terms and
12 provisions as determined by the authority subject to the
13 limitations in this section relating to original bond issues.
14 Refunding bonds are not subject to the provisions of any other
15 statute.

16 I. Refunding bonds:

17 (1) may have interest, principal value or any
18 part thereof payable at intervals or at maturity, as determined
19 by the authority;

20 (2) may be subject to prior redemption at the
21 authority's option at a time or times and upon terms and
22 conditions with or without payment of premium or premiums, as
23 determined by the authority;

24 (3) may be serial in form and maturity or may
25 consist of a single bond payable in one or more installments or

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1 may be in another form, as determined by the authority; and

2 (4) shall be exchanged for the bonds and any
3 matured unpaid interest being refunded at not less than par or
4 sold at public or negotiated sale at, above or below par and at
5 a price that results in a net effective interest rate that does
6 not exceed the maximum permitted by the Public Securities Act.

7 J. At a regular or special meeting, the authority
8 may adopt a resolution by majority vote to authorize the
9 issuance of the refunding bonds.

10 SECTION 12. [NEW MATERIAL] BONDS NOT OBLIGATION OF
11 STATE.--All bonds or other obligations issued pursuant to the
12 Hydrogen Hub Development Act are payable solely from the
13 revenue of the authority that may be pledged to the payment of
14 such obligations, and the bonds or other obligations shall not
15 create an obligation, debt or liability of the state or of its
16 political subdivisions. No breach of any pledge, obligation or
17 agreement of the authority shall impose a pecuniary liability
18 or a charge upon the general credit or taxing power of the
19 state or of its political subdivisions.

20 SECTION 13. [NEW MATERIAL] REPORT.--By December 1, 2022,
21 and by December 1 of each year thereafter, the board shall
22 provide a report to the governor and the New Mexico finance
23 authority oversight committee regarding:

24 A. hydrogen hubs and hydrogen hub projects approved
25 by the board;

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1 B. a description of the businesses and industries
2 participating in each approved hydrogen hub and hydrogen hub
3 project;

4 C. grant and loan applications approved by the
5 board;

6 D. public-private partnership agreements approved
7 by the board;

8 E. the status of the hydrogen hub project fund;

9 F. any certifications for the issuance of revenue
10 or refunding bonds made by the board to the authority; and

11 G. any recommended changes to the Hydrogen Hub
12 Development Act.

13 **SECTION 14. [NEW MATERIAL] CUMULATIVE AUTHORITY.**--The
14 Hydrogen Hub Development Act shall be deemed to provide an
15 additional and alternative method for the doing of things
16 authorized by that act and shall be regarded as supplemental
17 and additional to powers conferred by other laws and shall not
18 be regarded as in derogation of any powers now existing;
19 provided that the issuance of bonds pursuant to the provisions
20 of the Hydrogen Hub Development Act need not comply with the
21 requirements of any other law applicable to the issuance of
22 bonds, except the Public Securities Act, the Public Securities
23 Short-Term Interest Rate Act and the Public Securities
24 Limitation of Action Act, which acts shall apply.

25 **SECTION 15.** A new section of the Income Tax Act is

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1 enacted to read:

2 "[NEW MATERIAL] HYDROGEN PRODUCTION AND ENERGY GENERATION
3 INCOME TAX CREDIT.--

4 A. For taxable years prior to January 1, 2032, a
5 taxpayer who is not a dependent of another taxpayer and who
6 holds an interest in a carbon-negative hydrogen production
7 facility, a clean hydrogen production facility, a qualified
8 hydrogen production facility or a hydrogen electric generating
9 facility may apply for, and the department may allow, a tax
10 credit against the taxpayer's tax liability pursuant to the
11 Income Tax Act pursuant to the provisions of this section. The
12 tax credit provided by this section may be referred to as the
13 "hydrogen production and energy generation income tax credit".

14 B. The tax credit provided by this section shall
15 not be claimed in addition to the renewable energy production
16 tax credit pursuant to Section 7-2-18.18 NMSA 1978. A taxpayer
17 may claim a tax credit pursuant to only one paragraph of
18 Subsection C of this section or one paragraph of Subsection D
19 of this section.

20 C. For a facility located within a hydrogen hub
21 created pursuant to the Hydrogen Hub Development Act, the
22 amount of the tax credit shall equal the cost of producing
23 hydrogen in New Mexico but shall not exceed the following
24 amounts per kilogram of the first seventeen million kilograms
25 of the hydrogen fuel produced by the qualified hydrogen fuel or

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1 hydrogen resource generator in the taxable year:

2 (1) for the production of hydrogen for a
3 hydrogen electric generating facility, thirty cents (\$.30) per
4 kilogram;

5 (2) for the production of hydrogen by a
6 carbon-negative hydrogen production facility, thirty cents
7 (\$.30) per kilogram;

8 (3) for the production of hydrogen by a clean
9 hydrogen production facility, twenty cents (\$.20) per kilogram;
10 and

11 (4) for the production of hydrogen by a
12 qualified hydrogen production facility, ten cents (\$.10) per
13 kilogram.

14 D. For a facility not located within a hydrogen hub
15 created pursuant to the Hydrogen Hub Development Act, the
16 amount of the tax credit shall equal the cost of producing
17 hydrogen in New Mexico but shall not exceed the following
18 amounts per kilogram of the first seventeen million kilograms
19 of the hydrogen fuel produced by the qualified hydrogen fuel or
20 hydrogen resource generator in the taxable year:

21 (1) for the production of hydrogen for a
22 hydrogen electric generating facility, fifteen cents (\$.15) per
23 kilogram;

24 (2) for the production of hydrogen by a
25 carbon-negative hydrogen production facility, fifteen cents

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1 (\$.15) per kilogram;

2 (3) for the production of hydrogen by a clean
3 hydrogen production facility, ten cents (\$.10) per kilogram;
4 and

5 (4) for the production of hydrogen by a
6 qualified hydrogen production facility, five cents (\$.05) per
7 kilogram.

8 E. A taxpayer eligible for a hydrogen fuel
9 production and energy generation income tax credit shall be
10 eligible for the credit for five consecutive taxable years,
11 beginning on the date the qualified hydrogen fuel or hydrogen
12 resource generator begins producing hydrogen. Any portion of
13 the tax credit that remains unused at the end of the taxpayer's
14 taxable year may be carried forward for a maximum of five
15 consecutive taxable years.

16 F. A taxpayer who seeks to claim a tax credit
17 provided by this section shall apply for a certificate of
18 eligibility from the department of environment on forms and in
19 the manner prescribed by that department. The taxpayer shall
20 include with the application an administrative fee, as
21 determined by the department of environment, to cover the
22 reasonable costs of that department to determine whether the
23 facility meets the requirements of this section.

24 G. Within one hundred twenty days of receiving a
25 completed application, the department of environment shall

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1 issue a certificate of eligibility stating whether the taxpayer
2 is eligible to claim the tax credit provided by this section.

3 H. The department of environment shall adopt rules
4 establishing procedures to provide certification of the tax
5 credit provided by this section.

6 I. To receive a tax credit provided by this
7 section, a taxpayer shall apply to the department on forms and
8 in the manner prescribed by the department. The application
9 shall include a certificate of eligibility issued by the
10 department of environment pursuant to this section.

11 J. That portion of a tax credit that exceeds a
12 taxpayer's tax liability in the taxable year in which the
13 credit is claimed shall not be refunded but may be carried
14 forward for a maximum of seven consecutive taxable years.

15 K. Married individuals filing separate returns for
16 a taxable year for which they could have filed a joint return
17 may each claim only one-half of a tax credit that would have
18 been claimed on a joint return.

19 L. A taxpayer may be allocated the right to claim a
20 tax credit provided by this section in proportion to the
21 taxpayer's ownership interest if the taxpayer owns an interest
22 in a business entity that is taxed for federal income tax
23 purposes as a partnership or limited liability company and that
24 business entity has met all of the requirements to be eligible
25 for the credit. The total credit claimed by all members of the

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1 partnership or limited liability company shall not exceed the
2 allowable amount of credit pursuant to this section.

3 M. A taxpayer allowed a tax credit pursuant to this
4 section shall report the amount of the credit to the taxation
5 and revenue department in a manner required by that department.

6 N. The taxation and revenue department and the
7 department of environment shall compile an annual report on the
8 tax credit provided by this section that shall include the
9 number of taxpayers approved by the department to receive the
10 credit, the aggregate amount of credits approved and any other
11 information necessary to evaluate the credit. The departments
12 shall present the report to the revenue stabilization and tax
13 policy committee and the legislative finance committee with an
14 analysis of the cost of the tax credit.

15 O. As used in this section:

16 (1) "carbon intensity" means the quantity of
17 carbon dioxide equivalent emitted as determined through a life
18 cycle analysis as expressed in kilograms of carbon dioxide
19 equivalent per kilogram of hydrogen produced;

20 (2) "carbon-negative hydrogen" means hydrogen
21 produced with a carbon intensity less than zero kilograms of
22 carbon dioxide equivalent per kilogram of hydrogen produced;

23 (3) "carbon-negative hydrogen production
24 facility" means a facility located in New Mexico that begins
25 construction prior to January 1, 2035 and produces carbon-

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1 negative hydrogen;

2 (4) "clean hydrogen" means whichever of the
3 following results in the lower carbon intensity:

4 (a) hydrogen produced with a carbon
5 intensity equal to or less than two kilograms of carbon dioxide
6 equivalent per kilogram of hydrogen produced; or

7 (b) hydrogen meeting the standards for
8 clean hydrogen developed pursuant to Section 822 of the federal
9 Energy Policy Act of 2005, as that section may be amended or
10 renumbered;

11 (5) "clean hydrogen production facility" means
12 a facility located in New Mexico that begins construction prior
13 to January 1, 2033 and produces clean hydrogen;

14 (6) "GREET model" means the greenhouse gases,
15 regulated emissions and energy use in technologies model
16 developed by Argonne national laboratory or a successor model;

17 (7) "hydrogen" means the gaseous chemical
18 element whose atomic number is one, can condense into a liquid
19 or combine with other elements to form a solid or other liquids
20 or gases and is measured in kilograms; provided that energy
21 units, heating values or other forms of measurement of hydrogen
22 shall be converted to mass and expressed in kilograms;

23 (8) "hydrogen electric generating facility"
24 means a facility located in New Mexico that begins construction
25 prior to January 1, 2033, that uses hydrogen to generate

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1 electricity and emits no more than three hundred seventy-five
2 pounds of carbon dioxide per megawatt hour of produced
3 electricity;

4 (9) "interest in a carbon-negative hydrogen
5 production facility, a clean hydrogen production facility, a
6 qualified hydrogen production facility or a hydrogen electric
7 generating facility" means title to a carbon-negative hydrogen
8 production facility, a clean hydrogen production facility, a
9 qualified hydrogen production facility or a hydrogen electric
10 generating facility; a leasehold interest in such facility; an
11 ownership interest in a business or entity that is taxed for
12 federal income tax purposes as a partnership that holds title
13 to or a leasehold interest in such facility; or an ownership
14 interest, through one or more intermediate entities that are
15 each taxed for federal income tax purposes as a partnership, in
16 a business that holds title to or a leasehold interest in such
17 facility;

18 (10) "life cycle analysis" means:

19 (a) for hydrogen produced from methane
20 derived from oil or natural gas operations, the quantity of
21 greenhouse gas emissions through the point of hydrogen
22 production, as determined under the most recent GREET model and
23 certified by a third-party entity that is qualified to verify
24 life cycle analysis, as determined by the department of
25 environment;

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1 (b) for hydrogen produced from natural
2 gas from a regulated utility, the quantity of greenhouse gas
3 emissions produced at the site of production as determined
4 under the most recent GREET model and certified by a third-
5 party entity that is qualified to verify life cycle analysis,
6 as determined by the department of environment; or

7 (c) for hydrogen produced from any other
8 source, including agricultural waste, biomass, municipal solid
9 waste, water or wastewater treatment, the quantity of
10 greenhouse gas emissions through the point of hydrogen
11 production, including all stages of production and
12 distribution, from feedstock generation or extraction through
13 the distribution, delivery and use of the finished fuel or
14 other product, as determined under the most recent GREET model
15 and certified by a third-party entity that is qualified to
16 verify life cycle analysis, as determined by the department of
17 environment;

18 (11) "permanent sequestration of carbon
19 dioxide" means carbon dioxide injected pursuant to a monitoring
20 and verification plan approved pursuant to Code of Federal
21 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
22 RR as follows:

23 (a) prior to January 1, 2030, any source
24 category defined in Code of Federal Regulations Title 40,
25 chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;

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1 and

2 (b) on or after January 1, 2030, any
3 source category defined in Code of Federal Regulations Title
4 40, chapter 1, Subchapter C, Part 98, Subpart RR, Section
5 98.440, Paragraphs (a) and (b), excluding any well or group of
6 wells where a carbon dioxide stream is being injected in
7 subsurface geologic formations to enhance the recovery of oil
8 or natural gas;

9 (12) "qualified hydrogen" means:

10 (a) prior to July 1, 2028, hydrogen
11 produced with a carbon intensity equal to or less than four
12 kilograms and greater than two kilograms of carbon dioxide
13 equivalent per kilogram of hydrogen produced; and

14 (b) beginning on July 1, 2028, hydrogen
15 produced with a carbon intensity equal to or less than three
16 kilograms and greater than two kilograms of carbon dioxide
17 equivalent per kilogram of hydrogen produced;

18 (13) "qualified hydrogen fuel or hydrogen
19 resource generator" means a producer of clean hydrogen or a
20 clean hydrogen production facility that:

21 (a) provides for the permanent
22 sequestration of carbon dioxide created in the production of
23 clean hydrogen by the hydrogen fuel or hydrogen resource
24 generator, either by the creator of the carbon dioxide or by a
25 purchaser of the carbon dioxide; and

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1 (b) provides certification that methane
2 gas produced or purchased for the generation of hydrogen is
3 responsibly sourced gas;

4 (14) "qualified hydrogen production facility"
5 means a facility located in New Mexico that produces qualified
6 hydrogen and that begins construction prior to January 1, 2031;
7 and

8 (15) "responsibly sourced gas" means gas used
9 or purchased to produce hydrogen that either:

10 (a) meets the standard for methane gas
11 allowed to be used in hydrogen hub projects as promulgated by
12 the federal government pursuant to Title 8 of the federal
13 Energy Policy Act of 2005; or

14 (b) in the absence of a federal
15 standard, is certified as a responsibly sourced gas by an
16 independent organization with the nationally recognized
17 expertise to provide such certification and such independent
18 organization and certification are approved by the department
19 of environment."

20 SECTION 16. A new section of the Corporate Income and
21 Franchise Tax Act is enacted to read:

22 "[NEW MATERIAL] HYDROGEN PRODUCTION AND ENERGY GENERATION
23 CORPORATE INCOME TAX CREDIT.--

24 A. For taxable years prior to January 1, 2032, a
25 taxpayer that holds an interest in a carbon-negative hydrogen

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1 production facility, a clean hydrogen production facility, a
2 qualified hydrogen production facility or a hydrogen electric
3 generating facility may apply for, and the department may
4 allow, a tax credit against the taxpayer's tax liability
5 pursuant to the Corporate Income and Franchise Tax Act pursuant
6 to the provisions of this section. The tax credit provided by
7 this section may be referred to as the "hydrogen production and
8 energy generation corporate income tax credit".

9 B. The tax credit provided by this section shall
10 not be claimed in addition to the renewable energy production
11 tax credit pursuant to Section 7-2-18.18 NMSA 1978. A taxpayer
12 may claim a tax credit pursuant to only one paragraph of
13 Subsection C of this section or one paragraph of Subsection D
14 of this section.

15 C. For a facility located within a hydrogen hub
16 created pursuant to the Hydrogen Hub Development Act, the
17 amount of the tax credit shall equal the cost of producing
18 hydrogen in New Mexico but shall not exceed the following
19 amounts per kilogram of the first seventeen million kilograms
20 of the hydrogen fuel produced by the qualified hydrogen fuel or
21 hydrogen resource generator in the taxable year:

22 (1) for the production of hydrogen for a
23 hydrogen electric generating facility, thirty cents (\$.30) per
24 kilogram;

25 (2) for the production of hydrogen by a

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1 carbon-negative hydrogen production facility, thirty cents
2 (\$.30) per kilogram;

3 (3) for the production of hydrogen by a clean
4 hydrogen production facility, twenty cents (\$.20) per kilogram;
5 and

6 (4) for the production of hydrogen by a
7 qualified hydrogen production facility, ten cents (\$.10) per
8 kilogram.

9 D. For a facility not located within a hydrogen hub
10 created pursuant to the Hydrogen Hub Development Act, the
11 amount of the tax credit shall equal the cost of producing
12 hydrogen in New Mexico but shall not exceed the following
13 amounts per kilogram of the first seventeen million kilograms
14 of the hydrogen fuel produced by the qualified hydrogen fuel or
15 hydrogen resource generator in the taxable year:

16 (1) for the production of hydrogen for a
17 hydrogen electric generating facility, fifteen cents (\$.15) per
18 kilogram;

19 (2) for the production of hydrogen by a
20 carbon-negative hydrogen production facility, fifteen cents
21 (\$.15) per kilogram;

22 (3) for the production of hydrogen by a clean
23 hydrogen production facility, ten cents (\$.10) per kilogram;
24 and

25 (4) for the production of hydrogen by a

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1 qualified hydrogen production facility, five cents (\$.05) per
2 kilogram.

3 E. A taxpayer eligible for a hydrogen fuel
4 production and energy generation income tax credit shall be
5 eligible for the credit for five consecutive taxable years,
6 beginning on the date the qualified hydrogen fuel or hydrogen
7 resource generator begins producing hydrogen. Any portion of
8 the tax credit that remains unused at the end of the taxpayer's
9 taxable year may be carried forward for a maximum of five
10 consecutive taxable years.

11 F. A taxpayer that seeks to claim a tax credit
12 provided by this section shall apply for a certificate of
13 eligibility from the department of environment on forms and in
14 the manner prescribed by that department. The taxpayer shall
15 include with the application an administrative fee, as
16 determined by the department of environment, to cover the
17 reasonable costs of that department to determine whether the
18 facility meets the requirements of this section.

19 G. Within one hundred twenty days of receiving a
20 completed application, the department of environment shall
21 issue a certificate of eligibility stating whether the taxpayer
22 is eligible to claim the tax credit provided by this section.

23 H. The department of environment shall adopt rules
24 establishing procedures to provide certification of the tax
25 credit provided by this section.

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1 I. To receive a tax credit provided by this
2 section, a taxpayer shall apply to the department on forms and
3 in the manner prescribed by the department. The application
4 shall include a certificate of eligibility issued by the
5 department of environment pursuant to this section.

6 J. That portion of a tax credit that exceeds a
7 taxpayer's tax liability in the taxable year in which the
8 credit is claimed shall not be refunded but may be carried
9 forward for a maximum of seven consecutive taxable years.

10 K. A taxpayer allowed a tax credit pursuant to this
11 section shall report the amount of the credit to the taxation
12 and revenue department in a manner required by that department.

13 L. The taxation and revenue department and the
14 department of environment shall compile an annual report on the
15 tax credit provided by this section that shall include the
16 number of taxpayers approved by the department to receive the
17 credit, the aggregate amount of credits approved and any other
18 information necessary to evaluate the credit. The departments
19 shall present the report to the revenue stabilization and tax
20 policy committee and the legislative finance committee with an
21 analysis of the cost of the tax credit.

22 M. As used in this section:

23 (1) "carbon intensity" means the quantity of
24 carbon dioxide equivalent emitted as determined through a life
25 cycle analysis as expressed in kilograms of carbon dioxide

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1 equivalent per kilogram of hydrogen produced;

2 (2) "carbon-negative hydrogen" means hydrogen
3 produced with a carbon intensity less than zero kilograms of
4 carbon dioxide equivalent per kilogram of hydrogen produced;

5 (3) "carbon-negative hydrogen production
6 facility" means a facility located in New Mexico that begins
7 construction prior to January 1, 2035 and produces carbon-
8 negative hydrogen;

9 (4) "clean hydrogen" means whichever of the
10 following results in the lower carbon intensity:

11 (a) hydrogen produced with a carbon
12 intensity equal to or less than two kilograms of carbon dioxide
13 equivalent per kilogram of hydrogen produced; or

14 (b) hydrogen meeting the standards for
15 clean hydrogen developed pursuant to Section 822 of the federal
16 Energy Policy Act of 2005, as that section may be amended or
17 renumbered;

18 (5) "clean hydrogen production facility" means
19 a facility located in New Mexico that begins construction prior
20 to January 1, 2033 and produces clean hydrogen;

21 (6) "GREET model" means the greenhouse gases,
22 regulated emissions and energy use in technologies model
23 developed by Argonne national laboratory, or a successor model;

24 (7) "hydrogen" means the gaseous chemical
25 element whose atomic number is one, can condense to a liquid or

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1 combine with other elements to form a solid or other liquids or
2 gases and is measured in kilograms; provided that energy units,
3 heating values or other forms of measurement of hydrogen shall
4 be converted to mass and expressed in kilograms;

5 (8) "hydrogen electric generating facility"
6 means a facility located in New Mexico that begins construction
7 prior to January 1, 2033, that uses hydrogen to generate
8 electricity and emits no more than three hundred seventy-five
9 pounds of carbon dioxide per megawatt hour of produced
10 electricity;

11 (9) "interest in a carbon-negative hydrogen
12 production facility, a clean hydrogen production facility, a
13 qualified hydrogen production facility or a hydrogen electric
14 generating facility" means title to a carbon-negative hydrogen
15 production facility, clean hydrogen production facility,
16 qualified hydrogen production facility or hydrogen electric
17 generating facility; a leasehold interest in such facility; an
18 ownership interest in a business or entity that is taxed for
19 federal income tax purposes as a partnership that holds title
20 to or a leasehold interest in such facility; or an ownership
21 interest, through one or more intermediate entities that are
22 each taxed for federal income tax purposes as a partnership, in
23 a business that holds title to or a leasehold interest in such
24 facility;

25 (10) "life cycle analysis" means:

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1 (a) for hydrogen produced from methane
2 derived from oil or natural gas operations, the quantity of
3 greenhouse gas emissions through the point of hydrogen
4 production as determined under the most recent GREET model and
5 certified by a third-party entity that is qualified to verify
6 life cycle analysis, as determined by the department of
7 environment;

8 (b) for hydrogen produced from natural
9 gas from a regulated utility, the quantity of greenhouse gas
10 emissions produced at the site of production, as determined by
11 the most recent GREET model and certified by a third-party
12 entity that is qualified to verify life cycle analysis, as
13 determined by the department of environment; or

14 (c) for hydrogen produced from any other
15 source, including agricultural waste, biomass, municipal solid
16 waste, water or wastewater treatment, the quantity of
17 greenhouse gas emissions through the point of hydrogen
18 production, including all stages of production and distribution
19 from feedstock generation or extraction through the
20 distribution, delivery and use of the finished fuel or other
21 product, as determined under the most recent GREET model and
22 certified by a third-party entity that is qualified to verify
23 life cycle analysis, as determined by the department of
24 environment;

25 (11) "permanent sequestration of carbon

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1 dioxide" means carbon dioxide injected pursuant to a monitoring
2 and verification plan approved pursuant to Code of Federal
3 Regulations Title 40, chapter 1, Subchapter C, Part 98, Subpart
4 RR as follows:

5 (a) prior to January 1, 2030, any source
6 category defined in Code of Federal Regulations Title 40,
7 chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;
8 and

9 (b) on or after January 1, 2030, any
10 source category defined in Code of Federal Regulations Title
11 40, chapter 1, Subchapter C, Part 98, Subpart RR, Section
12 98.440, Paragraphs (a) and (b), excluding any well or group of
13 wells where a carbon dioxide stream is being injected in
14 subsurface geologic formations to enhance the recovery of oil
15 or natural gas;

16 (12) "qualified hydrogen" means:

17 (a) prior to July 1, 2028, hydrogen
18 produced with a carbon intensity equal to or less than four
19 kilograms and greater than two kilograms of carbon dioxide
20 equivalent per kilogram of hydrogen produced; and

21 (b) beginning on July 1, 2028, hydrogen
22 produced with a carbon intensity equal to or less than three
23 kilograms and greater than two kilograms of carbon dioxide
24 equivalent per kilogram of hydrogen produced;

25 (13) "qualified hydrogen fuel or hydrogen

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1 resource generator" means a producer of clean hydrogen or a
2 clean hydrogen production facility that:

3 (a) provides for the permanent
4 sequestration of carbon dioxide created in the production of
5 clean hydrogen by the hydrogen fuel or hydrogen resource
6 generator, either by the creator of the carbon dioxide or by a
7 purchaser of the carbon dioxide; and

8 (b) provides certification that methane
9 gas produced or purchased for the generation of hydrogen is
10 responsibly sourced gas;

11 (14) "qualified hydrogen production facility"
12 means a facility located in New Mexico that produces qualified
13 hydrogen and that begins construction prior to January 1, 2031;
14 and

15 (15) "responsibly sourced gas" means gas used
16 or purchased to produce hydrogen that either:

17 (a) meets the standard for methane gas
18 allowed to be used in hydrogen hub projects as promulgated by
19 the federal government pursuant to Title 8 of the federal
20 Energy Policy Act of 2005; or

21 (b) in the absence of a federal
22 standard, is certified as a responsibly sourced gas by an
23 independent organization with the nationally recognized
24 expertise to provide such certification and such independent
25 organization and certification are approved by the department

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1 of environment."

2 SECTION 17. A new section of the Gross Receipts and
3 Compensating Tax Act is enacted to read:

4 "[NEW MATERIAL] DEDUCTIONS--GROSS RECEIPTS--COMPENSATING
5 TAX--HYDROGEN-RELATED SALES AND USE.--

6 A. For taxable years prior to January 1, 2032, one
7 hundred percent of the receipts from selling carbon-negative
8 hydrogen may be deducted from gross receipts.

9 B. For taxable years prior to January 1, 2032,
10 sixty-six percent of the receipts from selling clean hydrogen
11 may be deducted from gross receipts.

12 C. For taxable years prior to January 1, 2032,
13 thirty-three percent of the receipts from selling qualified
14 hydrogen may be deducted from gross receipts.

15 D. For taxable years prior to January 1, 2032,
16 receipts from selling tangible personal property installed as
17 part of, or services rendered in connection with, constructing
18 and equipping a hydrogen refueling station may be deducted from
19 gross receipts.

20 E. For taxable years prior to January 1, 2032,
21 receipts from selling hydrogen-fueled vehicles may be deducted
22 from gross receipts.

23 F. For taxable years prior to January 1, 2032,
24 receipts from selling tangible personal property installed as
25 part of a system used for the distribution of hydrogen may be

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1 deducted from gross receipts.

2 G. The following amount of receipts from selling or
3 leasing tangible personal property or selling services that are
4 construction plant costs to a person who holds an interest in a
5 carbon-negative hydrogen production facility, a clean hydrogen
6 production facility, a qualified hydrogen production facility
7 or a hydrogen electric generating facility may be deducted from
8 gross receipts if the holder of the interest delivers an
9 appropriate nontaxable transaction certificate to the seller or
10 lessor or provides alternative evidence pursuant to Section
11 7-9-43 NMSA 1978:

12 (1) in regard to a carbon-negative hydrogen
13 production facility or a hydrogen electric generating facility,
14 one hundred percent;

15 (2) in regard to a clean hydrogen production
16 facility, sixty-six percent; and

17 (3) in regard to a qualified hydrogen
18 production facility, thirty-three percent.

19 H. Prior to July 1, 2032, the value of tangible
20 personal property installed as part of, or services rendered in
21 connection with, constructing and equipping a hydrogen
22 refueling station may be deducted in computing compensating tax
23 due.

24 I. Prior to July 1, 2032, the value of hydrogen-
25 fueled vehicles may be deducted in computing compensating tax

1 due.

2 J. Prior to July 1, 2032, the value of tangible
3 personal property installed as part of a system used for the
4 distribution of hydrogen may be deducted in computing
5 compensating tax due.

6 K. The following values of construction plant costs
7 purchased by a person who holds an interest in a carbon-
8 negative hydrogen production facility, a clean hydrogen
9 production facility, a qualified hydrogen production facility
10 or a hydrogen electric generating facility may be deducted in
11 computing the compensating tax due:

12 (1) in regard to a carbon-negative hydrogen
13 production facility, one hundred percent;

14 (2) in regard to a clean hydrogen production
15 facility or a hydrogen electric generating facility, sixty-six
16 percent; and

17 (3) in regard to a qualified hydrogen
18 production facility, thirty-three percent.

19 L. A taxpayer allowed a deduction pursuant to this
20 section shall report the amount of the deduction separately in
21 a manner required by the department.

22 M. The department shall compile an annual report on
23 the deductions provided by this section that shall include the
24 number of taxpayers that claimed each deduction, the aggregate
25 amount of deductions claimed and any other information

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1 necessary to evaluate the effectiveness of the deduction. The
2 department shall present the annual report to the revenue
3 stabilization and tax policy committee and the legislative
4 finance committee with an analysis of the effectiveness and
5 cost of the deductions.

6 N. As used in this section:

7 (1) "carbon intensity" means the quantity of
8 carbon dioxide equivalent emitted as determined through a life
9 cycle analysis as expressed in kilograms of carbon dioxide
10 equivalent per kilogram of hydrogen produced;

11 (2) "carbon-negative hydrogen" means hydrogen
12 produced with a carbon intensity equal to or less than zero
13 kilograms of carbon dioxide equivalent per kilogram of hydrogen
14 produced;

15 (3) "carbon-negative hydrogen production
16 facility" means a facility located in New Mexico that produces
17 carbon-negative hydrogen and begins construction prior to
18 January 1, 2035;

19 (4) "clean hydrogen" means whichever of the
20 following results in the lower carbon intensity:

21 (a) hydrogen produced with a carbon
22 intensity equal to or less than two kilograms and greater than
23 zero kilograms of carbon dioxide equivalent per kilogram of
24 hydrogen produced; or

25 (b) hydrogen meeting the standards for

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1 clean hydrogen developed pursuant to Section 822 of the federal
2 Energy Policy Act of 2005, as that section may be amended or
3 renumbered;

4 (5) "clean hydrogen production facility" means
5 a facility located in New Mexico that produces clean hydrogen
6 and begins construction prior to January 1, 2033;

7 (6) "construction plant costs" means actual
8 expenditures for the development and construction of a carbon-
9 negative hydrogen production facility, a clean hydrogen
10 production facility, a qualified hydrogen production facility
11 or a hydrogen electric generating facility, including
12 permitting; site characterization and assessment; engineering;
13 design; carbon dioxide capture, treatment, compression,
14 transportation and sequestration; site and equipment
15 acquisition; raw materials; and fuel supply development used
16 directly and exclusively in the facility;

17 (7) "hydrogen electric generating facility"
18 means a facility located in New Mexico that begins construction
19 prior to January 1, 2033, that uses hydrogen to generate
20 electricity and emits no more than three hundred seventy-five
21 pounds of carbon dioxide per megawatt hour of produced
22 electricity;

23 (8) "hydrogen-fueled vehicle" means a bus,
24 commercial motor vehicle, off-highway motor vehicle, railroad
25 train, recreational vehicle, road tractor, school bus, special

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1 mobile equipment, tank vehicle, truck or truck tractor, as
2 those terms are defined in the Motor Vehicle Code, that is
3 fueled by hydrogen;

4 (9) "hydrogen refueling station" means a
5 refueling station that supplies hydrogen suitable for use as a
6 fuel in hydrogen-fueled vehicles;

7 (10) "interest in a carbon-negative hydrogen
8 production facility, a clean hydrogen production facility, a
9 qualified hydrogen production facility or a hydrogen electric
10 generating facility" means title to a carbon-negative hydrogen
11 production facility, a clean hydrogen production facility, a
12 qualified hydrogen production facility or a hydrogen electric
13 generating facility; a leasehold interest in such facility; an
14 ownership interest in a business or entity that is taxed for
15 federal income tax purposes as a partnership that holds title
16 to or a leasehold interest in such facility; or an ownership
17 interest, through one or more intermediate entities that are
18 each taxed for federal income tax purposes as a partnership, in
19 a business that holds title to or a leasehold interest in such
20 facility;

21 (11) "qualified hydrogen" means:

22 (a) prior to July 1, 2028, hydrogen
23 produced with a carbon intensity equal to or less than four
24 kilograms and greater than two kilograms of carbon dioxide
25 equivalent per kilogram of hydrogen produced; and

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1 (b) beginning on July 1, 2028, hydrogen
2 produced with a carbon intensity equal to or less than three
3 kilograms and greater than two kilograms of carbon dioxide
4 equivalent per kilogram of hydrogen produced;

5 (12) "qualified hydrogen production facility"
6 means a facility located in New Mexico that produces qualified
7 hydrogen and that begins construction prior to January 1, 2031;
8 and

9 (13) "special mobile equipment" means "special
10 mobile equipment" as defined in the Motor Vehicle Code."

11 SECTION 18. A new Section 9-7A-16 NMSA 1978 is enacted to
12 read:

13 "9-7A-16. [NEW MATERIAL] DEPARTMENT ADDITIONAL DUTIES.--

14 A. The department of environment shall:

15 (1) conduct an evaluation of the use of
16 hydrogen across various sectors of the economy as it relates to
17 decarbonization in New Mexico;

18 (2) conduct an analysis of greenhouse gas
19 emissions from hydrogen production, distribution and use in New
20 Mexico;

21 (3) conduct an analysis of greenhouse gas
22 emissions that are offset by the use of hydrogen in New Mexico;
23 and

24 (4) evaluate the sectors of the economy in
25 which hydrogen may be used, comparing the use of hydrogen to

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1 the use of other technologies on a cost and emissions basis.

2 B. The department shall complete the tasks set
3 forth in Subsection A of this section by no later than October
4 1, 2023 and shall submit a report containing the department's
5 findings to the governor, the economic development department
6 and the legislature by October 1, 2023.

7 C. No later than July 1, 2024, the department shall
8 petition the environmental improvement board to promulgate
9 rules that consider and address the implications for greenhouse
10 gas emissions resulting from the generation and use of hydrogen
11 in New Mexico."

12 SECTION 19. Section 13-1-98 NMSA 1978 (being Laws 1984,
13 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,
14 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended
15 to read:

16 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
17 provisions of the Procurement Code shall not apply to:

18 A. procurement of items of tangible personal
19 property or services by a state agency or a local public body
20 from a state agency, a local public body or external
21 procurement unit except as otherwise provided in Sections
22 13-1-135 through 13-1-137 NMSA 1978;

23 B. procurement of tangible personal property or
24 services for the governor's mansion and grounds;

25 C. printing and duplicating contracts involving

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1 materials that are required to be filed in connection with
2 proceedings before administrative agencies or state or federal
3 courts;

4 D. purchases of publicly provided or publicly
5 regulated gas, electricity, water, sewer and refuse collection
6 services;

7 E. purchases of books, periodicals and training
8 materials in printed or electronic format from the publishers
9 or copyright holders thereof and purchases of print, digital or
10 electronic format library materials by public, school and state
11 libraries for access by the public;

12 F. travel or shipping by common carrier or by
13 private conveyance or to meals and lodging;

14 G. purchase of livestock at auction rings or to the
15 procurement of animals to be used for research and
16 experimentation or exhibit;

17 H. contracts with businesses for public school
18 transportation services;

19 I. procurement of tangible personal property or
20 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
21 by the corrections industries division of the corrections
22 department pursuant to rules adopted by the corrections
23 industries commission, which shall be reviewed by the
24 purchasing division of the general services department prior to
25 adoption;

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1 J. purchases not exceeding ten thousand dollars
2 (\$10,000) consisting of magazine subscriptions, web-based or
3 electronic subscriptions, conference registration fees and
4 other similar purchases where prepayments are required;

5 K. municipalities having adopted home rule charters
6 and having enacted their own purchasing ordinances;

7 L. the issuance, sale and delivery of public
8 securities pursuant to the applicable authorizing statute, with
9 the exception of bond attorneys and general financial
10 consultants;

11 M. contracts entered into by a local public body
12 with a private independent contractor for the operation, or
13 provision and operation, of a jail pursuant to Sections 33-3-26
14 and 33-3-27 NMSA 1978;

15 N. contracts for maintenance of grounds and
16 facilities at highway rest stops and other employment
17 opportunities, excluding those intended for the direct care and
18 support of persons with handicaps, entered into by state
19 agencies with private, nonprofit, independent contractors who
20 provide services to persons with handicaps;

21 O. contracts and expenditures for services or items
22 of tangible personal property to be paid or compensated by
23 money or other property transferred to New Mexico law
24 enforcement agencies by the United States department of justice
25 drug enforcement administration;

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1 P. contracts for retirement and other benefits
2 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

3 Q. contracts with professional entertainers;

4 R. contracts and expenditures for legal
5 subscription and research services and litigation expenses in
6 connection with proceedings before administrative agencies or
7 state or federal courts, including experts, mediators, court
8 reporters, process servers and witness fees, but not including
9 attorney contracts;

10 S. contracts for service relating to the design,
11 engineering, financing, construction and acquisition of public
12 improvements undertaken in improvement districts pursuant to
13 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
14 improvement districts pursuant to Subsection L of Section
15 4-55A-12.1 NMSA 1978;

16 T. works of art for museums or for display in
17 public buildings or places;

18 U. contracts entered into by a local public body
19 with a person, firm, organization, corporation or association
20 or a state educational institution named in Article 12, Section
21 11 of the constitution of New Mexico for the operation and
22 maintenance of a hospital pursuant to Chapter 3, Article 44
23 NMSA 1978, lease or operation of a county hospital pursuant to
24 the Hospital Funding Act or operation and maintenance of a
25 hospital pursuant to the Special Hospital District Act;

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1 V. purchases of advertising in all media, including
2 radio, television, print and electronic;

3 W. purchases of promotional goods intended for
4 resale by the tourism department;

5 X. procurement of printing, publishing and
6 distribution services for materials produced and intended for
7 resale by the cultural affairs department;

8 Y. procurement by or through the public education
9 department from the federal department of education relating to
10 parent training and information centers designed to increase
11 parent participation, projects and initiatives designed to
12 improve outcomes for students with disabilities and other
13 projects and initiatives relating to the administration of
14 improvement strategy programs pursuant to the federal
15 Individuals with Disabilities Education Act; provided that the
16 exemption applies only to procurement of services not to exceed
17 two hundred thousand dollars (\$200,000);

18 Z. procurement of services from community
19 rehabilitation programs or qualified individuals pursuant to
20 the State Use Act;

21 AA. purchases of products or services for eligible
22 persons with disabilities pursuant to the federal
23 Rehabilitation Act of 1973;

24 BB. procurement, by either the department of health
25 or Grant county or both, of tangible personal property,

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1 services or construction that are exempt from the Procurement
2 Code pursuant to Section 9-7-6.5 NMSA 1978;

3 CC. contracts for investment advisory services,
4 investment management services or other investment-related
5 services entered into by the educational retirement board, the
6 state investment officer or the retirement board created
7 pursuant to the Public Employees Retirement Act;

8 DD. the purchase for resale by the state fair
9 commission of feed and other items necessary for the upkeep of
10 livestock;

11 EE. contracts entered into by the crime victims
12 reparation commission to distribute federal grants to assist
13 victims of crime, including grants from the federal Victims of
14 Crime Act of 1984 and the federal Violence Against Women Act of
15 1994;

16 FF. procurement by or through the early childhood
17 education and care department of early pre-kindergarten and
18 pre-kindergarten services purchased pursuant to the Pre-
19 Kindergarten Act;

20 GG. procurement of services of commissioned
21 advertising sales representatives for New Mexico magazine;
22 [~~and~~]

23 HH. agreements and contracts entered into pursuant
24 to the Hydrogen Hub Development Act; and

25 [~~HH.~~] II. procurements exempt from the Procurement

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1 Code as otherwise provided by law."

2 SECTION 20. Section 62-15-37 NMSA 1978 (being Laws 2007,
3 Chapter 4, Section 4, as amended) is amended to read:

4 "62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE
5 ENERGY.--As used in the Rural Electric Cooperative Act:

6 A. "clean hydrogen electric generation facility"
7 means an electric power generation facility located in New
8 Mexico that uses one hundred percent hydrogen to generate
9 electricity, whose electrical output can be controlled to aid
10 in balancing electric supply and demand and emits no more than
11 three hundred seventy-five pounds of carbon dioxide equivalent
12 per megawatt hour and that:

13 (1) provides for the permanent sequestration
14 of carbon dioxide created in the production of clean hydrogen
15 by the hydrogen fuel or hydrogen resource generator, either by
16 the creator of the carbon dioxide or by a purchaser of the
17 carbon dioxide; and

18 (2) provides certification that methane gas
19 produced or purchased for the generation of hydrogen is
20 responsibly sourced gas;

21 [~~A.~~] B. "energy efficiency" means measures,
22 including energy conservation measures, or programs that target
23 consumer behavior, equipment or devices to result in a decrease
24 in consumption of electricity without reducing the amount or
25 quality of energy services;

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1 C. "permanent sequestration of carbon dioxide"
2 means carbon dioxide injected pursuant to a monitoring and
3 verification plan approved pursuant to Code of Federal
4 Regulations Title 40, Chapter 1, Subchapter C, Part 98, Subpart
5 RR as follows:

6 (1) prior to January 1, 2030, any source
7 category defined in Code of Federal Regulations Title 40,
8 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;
9 and

10 (2) on or after January 1, 2030, any source
11 category defined in Code of Federal Regulations Title 40,
12 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440,
13 Paragraphs (a) and (b), excluding any well or group of wells
14 where a carbon dioxide stream is being injected in subsurface
15 geologic formations to enhance the recovery of oil or natural
16 gas;

17 ~~[B-]~~ D. "renewable energy" means electric energy
18 generated by use of renewable energy resources and delivered to
19 a rural electric cooperative;

20 ~~[G-]~~ E. "renewable energy certificate" means a
21 certificate or other record, in a format approved by the public
22 regulation commission, that represents all the environmental
23 attributes from one megawatt-hour of electricity generated from
24 renewable energy;

25 ~~[D-]~~ F. "renewable energy resource" means electric

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1 or useful thermal energy:

2 (1) generated by use of the following energy
3 resources, with or without energy storage and delivered to a
4 rural electric cooperative:

5 (a) solar, wind and geothermal;

6 (b) hydropower facilities brought in
7 service on or after July 1, 2007;

8 (c) other hydropower facilities
9 supplying no greater than the amount of energy from hydropower
10 facilities that were part of an energy supply portfolio prior
11 to July 1, 2007;

12 (d) fuel cells that do not use fossil
13 fuels to create electricity;

14 (e) biomass resources, limited to
15 agriculture or animal waste, small diameter timber, not to
16 exceed eight inches, salt cedar and other phreatophyte or woody
17 vegetation removed from river basins or watersheds in New
18 Mexico; provided that these resources are from facilities
19 certified by the energy, minerals and natural resources
20 department to: 1) be of appropriate scale to have sustainable
21 feedstock in the near vicinity; 2) have zero life cycle carbon
22 emissions; and 3) meet scientifically determined restoration,
23 sustainability and soil nutrient principles; and

24 (f) landfill gas and anaerobically
25 digested waste biomass; and

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1 (2) does not include electric energy generated
2 by use of fossil fuel or nuclear energy;

3 G. "responsibly sourced gas" means gas used or
4 purchased to produce hydrogen that either:

5 (1) meets the standard for methane gas allowed
6 to be used in hydrogen hub projects as promulgated by the
7 federal government pursuant to Title 8 of the federal Energy
8 Policy Act of 2005; or

9 (2) in the absence of a federal standard, is
10 certified as a responsibly sourced gas by an independent
11 organization with nationally recognized expertise to provide
12 such certification and such independent organization and
13 certification are approved by the department of environment;

14 [~~E-~~] H. "useful thermal energy" means renewable
15 energy delivered from a source that can be metered and that is
16 delivered in the state to an end user in the form of direct
17 heat, steam or hot water or other thermal form that is used for
18 heating, cooling, humidity control, process use or other valid
19 end-use energy requirements and for which fossil fuel or
20 electricity would otherwise be consumed;

21 [~~F-~~] I. "zero carbon resource" means an electricity
22 generation resource:

23 (1) that emits no carbon dioxide into the
24 atmosphere; [~~o-~~]

25 (2) that reduces methane emitted into the

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[bracketed material] = delete

1 atmosphere in an amount equal to no less than one-tenth of the
2 tons of carbon dioxide emitted into the atmosphere, as a result
3 of electricity production; or

4 (3) is a clean hydrogen electric generation
5 facility; and

6 [~~G-~~] J. "zero carbon resource standard" means
7 providing New Mexico rural electric cooperative retail
8 customers with electricity generated from one hundred percent
9 zero carbon resources."

10 SECTION 21. Section 62-16-3 NMSA 1978 (being Laws 2004,
11 Chapter 65, Section 3, as amended) is amended to read:

12 "62-16-3. DEFINITIONS.--As used in the Renewable Energy
13 Act:

14 A. "clean hydrogen electric generation facility"
15 means an electric power generation facility located in New
16 Mexico that uses one hundred percent hydrogen to generate
17 electricity, whose electrical output can be controlled to aid
18 in balancing electric supply and demand and emits no more than
19 three hundred seventy-five pounds of carbon dioxide equivalent
20 per megawatt hour and that:

21 (1) provides for the permanent sequestration
22 of carbon dioxide created in the production of clean hydrogen
23 by the hydrogen fuel or hydrogen resource generator, either by
24 the creator of the carbon dioxide or by a purchaser of the
25 carbon dioxide; and

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1 (2) provides certification that methane gas
2 produced or purchased for the generation of hydrogen is
3 responsibly sourced gas;

4 ~~[A.]~~ B. "commission" means the public regulation
5 commission;

6 ~~[B.]~~ C. "energy storage" means batteries or other
7 means by which energy can be retained and delivered as
8 electricity for use at a later time;

9 ~~[G.]~~ D. "municipality" means a municipal
10 corporation, organized under the laws of the state, and H class
11 counties;

12 E. "permanent sequestration of carbon dioxide"
13 means carbon dioxide injected pursuant to a monitoring and
14 verification plan approved pursuant to Code of Federal
15 Regulations Title 40, Chapter 1, Subchapter C, Part 98, Subpart
16 RR as follows:

17 (1) prior to January 1, 2030, any source
18 category defined in Code of Federal Regulations Title 40,
19 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440;
20 and

21 (2) on or after January 1, 2030, any source
22 category defined in Code of Federal Regulations Title 40,
23 Chapter 1, Subchapter C, Part 98, Subpart RR, Section 98.440,
24 Paragraphs (a) and (b), excluding any well or group of wells
25 where a carbon dioxide stream is being injected in subsurface

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1 geologic formations to enhance the recovery of oil or natural
2 gas;

3 ~~[D-]~~ F. "public utility" means an entity certified
4 by the commission to provide retail electric service in New
5 Mexico pursuant to the Public Utility Act but does not include
6 rural electric cooperatives;

7 ~~[E-]~~ G. "reasonable cost threshold" means an
8 average annual levelized cost of sixty dollars (\$60.00) per
9 megawatt-hour at the point of interconnection of the renewable
10 energy resource with the transmission system, adjusted for
11 inflation after 2020;

12 ~~[F-]~~ H. "renewable energy" means electric energy
13 generated by use of renewable energy resources and delivered to
14 a public utility;

15 ~~[G-]~~ I. "renewable energy certificate" means a
16 certificate or other record, in a format approved by the
17 commission, that represents all the environmental attributes
18 from one megawatt-hour of electricity generated from renewable
19 energy;

20 ~~[H-]~~ J. "renewable energy resource" means the
21 following energy resources, with or without energy storage:

- 22 (1) solar, wind and geothermal;
- 23 (2) hydropower facilities brought in service
24 on or after July 1, 2007;
- 25 (3) biomass resources, limited to agriculture

1 or animal waste, small diameter timber, not to exceed eight
2 inches, salt cedar and other phreatophyte or woody vegetation
3 removed from river basins or watersheds in New Mexico; provided
4 that these resources are from facilities certified by the
5 energy, minerals and natural resources department to:

6 (a) be of appropriate scale to have
7 sustainable feedstock in the near vicinity;

8 (b) have zero life cycle carbon
9 emissions; and

10 (c) meet scientifically determined
11 restoration, sustainability and soil nutrient principles;

12 (4) fuel cells that do not use fossil fuels to
13 create electricity; and

14 (5) landfill gas and anaerobically digested
15 waste biogas;

16 [~~F.~~] K. "renewable portfolio standard" means the
17 minimum percentage of retail sales of electricity by a public
18 utility to electric consumers in New Mexico that is required by
19 the Renewable Energy Act to be from renewable energy;

20 [~~J.~~] L. "renewable purchased power agreement" means
21 an agreement that binds an entity generating power from
22 renewable energy resources to provide power at a specified
23 price and binds the purchaser to that price;

24 M. "responsibly sourced gas" means gas used or
25 purchased to produce hydrogen that either:

underscored material = new
[bracketed material] = delete

1 (1) meets the standard for methane gas allowed
2 to be used in hydrogen hub projects as promulgated by the
3 federal government pursuant to Title 8 of the federal Energy
4 Policy Act of 2005; or

5 (2) in the absence of a federal standard, is
6 certified as a responsibly sourced gas by a independent
7 organization with the nationally recognized expertise to
8 provide such certification and such independent organization
9 and certification are approved by the department of
10 environment;

11 ~~[K-]~~ N. "zero carbon resource" means an electricity
12 generation resource:

13 (1) that emits no carbon dioxide into the
14 atmosphere; ~~[or]~~

15 (2) that reduces methane emitted into the
16 atmosphere in an amount equal to no less than one-tenth of the
17 tons of carbon dioxide emitted into the atmosphere, as a result
18 of electricity production; or

19 (3) is a clean hydrogen electric generation
20 facility; and

21 ~~[L-]~~ O. "zero carbon resource standard" means
22 providing New Mexico public utility customers with electricity
23 generated from one hundred percent zero carbon resources."

24 **SECTION 22. APPLICABILITY.**--Sections 15 and 16 of this
25 act apply to taxable years beginning on or after January 1,

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1 2022.

2 SECTION 23. EFFECTIVE DATE.--The effective date of the
3 provisions of Section 17 of this act is July 1, 2022.

4 SECTION 24. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

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