

LFC Requester: _____

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:
Original x **Amendment** _____
Correction **Substitute** _____

Date 2/17/2025
Bill No: HB 394

Sponsor: Rep. Tara Lujan, Cynthia Borrego
Short Title: Clean Energy & Natural Resources Board

Agency Name and Code EMNRD 521
Number: _____
Person Writing Samantha Kao
Phone: _____ **Email** Samantha.kao@emnrn.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$100.0	Nonrecurring	GF

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

HB394 creates the Clean Energy & Natural Resources Advisory Board which will include three renewable energy experts, two building energy efficiency experts, two energy infrastructure experts, two oil and gas industry experts, two investment experts, two forest and wildland experts, one state parks expert, two experts from the academic community, and one mining industry expert.

Members of the Advisory Board are directed to meet twice a year, once before and after the legislative session, and to provide technical expertise to the secretary of the Energy, Minerals, and Natural Resources Department (EMNRD) and its staff, relevant interim committees, and the Governor on implementing and maintaining clean energy in New Mexico.

Finally, HB394 appropriates \$100,000 to EMNRD to carry out the provisions of this bill.

FISCAL IMPLICATIONS

EMNRD anticipates that the initial establishment of this board will require .5 FTE to carry out the following duties:

- Recruit and vet board members and track board member terms
- Draft and circulate letters of nomination for both the Secretary and the Office of the Governor
- Comply with Open Meetings Act requirements, including developing notice and recordkeeping duties
- Track the creation of subcommittees
- Scheduling and staffing meetings for both the committee of the whole, as well as any subcommittees
- Develop and track meeting agendas
- Maintain record of and compliance with bylaws and operating procedures for both the committee and subcommittees
- Maintain compliance with the Per Diem and Mileage Act

SIGNIFICANT ISSUES

The board proposed by HB 394 is composed of 17 members spanning 9 different areas of expertise. The process of appointing those members involves both the EMNRD Office of the Secretary, as well as the Executive Office of the Governor. Finding this number of people willing to serve an unpaid four-year term will present a challenge for EMNRD staff, especially given the nine different requirements for diversity of expertise, background, and representation.

The legislation establishes a quorum requirement for the transaction of “business,” but specifies no concrete or discernible actions or duties that the board might undertake beyond providing advice (which is undefined), establishing subcommittees, and creating bylaws. This lack of apparent authority or purpose will add to the challenge of recruiting board members.

EMNRD is already charged with convening and supporting numerous boards, commissions, and task forces dedicated to clean energy and natural resource management, with all areas of expertise outlined in HB394 being well-represented on these existing bodies. These boards consist of qualified experts tasked with carrying out specific and defined responsibilities and duties:

- Radioactive Waste Consultation Task Force (NMSA 1978, 74A-4A-6)
- Fire Planning Task Force (NMSA 1978, Section 68-2-34)
- Tree Planting Advisory Committee (NMSA 1978, Section 68-2-33)
- New Mexico Urban Forest Council (federal funding requirement)
- Natural Lands Protection Act Committee (NMSA 1978, Section 75-5-4; NMSA 1978, Section 75-9-4; NMSA 1978, Sections 75-10-3 and 6)
- Forest and Watershed Management Coordinating Group (voluntary)
- Mining Commission (NMSA 1978, Section 69-36-6)
- Coal Surface Mining Commission (NMSA 1978, Section 69-25A-4)
- Oil Conservation Commission (NMSA 1978, Section 70-2-4)
- Technical Advisory Committee to the Office of Interstate Natural Gas Markets (NMSA 1978, Section 70-11-5)
- State Parks Advisory Board (NMSA 1978, Section 16-2-2)
- Rio Grande Trail Commission (NMSA 1978, Section 9-5C-1)
- Carlsbad Brine Well Remediation Authority (NMSA 1978, Section 75-11-1)
- New Mexico Youth Conservation Corps Commission (NMSA 1978, Section 9-5B-5)

In spite of these issues, advisory boards such as the one proposed in HB 394 can play important functions for agencies, particularly when it comes to raising the profile of agency actions such as rule changes, land acquisitions, notices of funding opportunities, and the rollout of new public facing programs. A high level advisory board can also play an important role in supporting cross-cutting agency efforts.

PERFORMANCE IMPLICATIONS

The bill requires that the board meet twice a year “once prior to the legislative session and once after the legislative session.” Assuming the bill refers to the legislative session in a given calendar year, that would require the board to meet in the three-week period prior to the beginning of the legislative session in January every year. This period of the year is typically extremely busy as EMNRD prepares legislation, bill analysis, and prepares budget testimony. Adding the requirement to convene a large advisory board would present a higher than usual administrative burden on the agency staff tasked with supporting the board, and possibly present administrative challenges if individual board members’ availability are also compromised by session preparation duties.

ADMINISTRATIVE IMPLICATIONS

The secretary of EMNRD or a designee would need to convene the Advisory Board twice a year and conduct the meetings pursuant to the Open Meetings Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB394 potentially duplicative of, or in conflict with, the various existing boards and commissions listed in *Significant Issues*

TECHNICAL ISSUES

The duties of the board and the proposed composition are misaligned. The duties on page 3, line 14 are to provide advice “addressing clean energy and *natural resources for implementing and maintaining clean energy in the state.*” A close reading of this section suggests that the consideration of natural resources should be done within the context clean energy development, suggesting a focus on issues such as critical minerals mining. This is in conflict with the existence of three seats on the board reserved for traditional natural resource management interests such as forestry and parks.

Additionally, the appropriation language is misaligned with the duties of the board. Page 4, line 1 establishes that the funds are to be used for the board to provide advice for “implementing and maintaining clean energy in the state” while the duties of the board on page 3, line 14 are to provide advice “addressing clean energy and natural resources for implementing and maintaining clean energy in the state.”

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD will continue to administer the 14 boards and commissions it is currently already assigned.

AMENDMENTS