

LFC Requester:

Helen Gaussoin

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

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**SECTION I: GENERAL INFORMATION**

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

Check all that apply:

Original  Amendment   
Correction  Substitute

Date 1/30/24

Bill No: HB 9

Sponsor: Reps. Dixon & Small  
Short Title: Climate, Energy, & Water

Agency Name and Code EMNRD-521  
Number:

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	10,000.0	Nonrecurring	From GF to 'Climate, Energy, & Water Project Fund'
	5,000.0	Nonrecurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

House Bill 9 (HB 9) creates a new division in the Economic Development Department (EDD), the ‘Climate, Energy and Water Division’ (the Division); provides the Division with powers and duties, establishes the ‘Decarbonization Technology Program’ within the Division; and creates the ‘Climate, Energy and Water Project Fund’. HB 9 appropriates \$10 million from the General Fund into the Climate, Energy and Water Project Fund, and appropriates an additional \$5 million to the Economic Development Department for the operations of the newly created Division.

Section 1 of HB 9 creates the Division and enumerates its powers. Those powers include:

1. Serving as ‘project permitting navigators’ for climate, energy, and water projects;
2. Identifying site-ready and brownfield locations for those projects;
3. Providing recommendations to the Governor and the Legislature on streamlining permitting processes for those projects;
4. Working with “international, regional, and national entities on climate, energy and water technology and economics”
5. Coordinating with ‘industry’ and ‘workforce organizations’, along with educational institutions and the Workforce Solutions department to ‘ensure a trained workforce in the state’;
6. Engaging “directly” with Indian nations, tribes, and pueblos on “energy partnerships”;
7. Identifying and facilitating partnerships for entities in the state to apply for competitive federal grand opportunities relating to “climate, energy and water technology, hubs, and economics”;
8. Establishing guidelines and rules for programs and grants for clean energy, water, and energy conservation technology pilot and demonstration projects;
9. Developing a “two-year strategic plan” which must be submitted to the Economic Development Department before August 1 of each year;
10. Gathering, centralizing, and disseminating information on climate, energy, and water technology and entities working in those sectors; and
11. Creating programs to support the decarbonization of “New Mexico industry, electricity generation, transportation, agriculture and buildings”.

HB 9 also authorizes this new Division to:

1. Adopt rules for “a decarbonization technology program”;

2. Make, enter into, and enforce contracts, agreements and “other instruments necessary, convenient, or desirable” to carry out its duties; and
3. Enter into agreements to share employees with the Department of Environment (NMED), the Energy, Minerals and Natural Resources Department (EMNRD), and the Workforce Solutions Department (WSD).

Section 2 of HB 9 creates the ‘Decarbonization Technology Program’ (the ‘Program’) in the Division. This Program is intended to recruit climate, energy and water companies to New Mexico and promote the development of their technologies, bring pilot programs to commercialization, and otherwise promote this economic sector. The Program also has three other duties:

1. To ‘develop and implement tools and incentives to facilitate decarbonization efforts’;
2. To ‘make recommendations for policy and statutory changes’; and
3. To establish a “carbon concierge program”, loosely defined as a program to ‘connect suppliers, offtakers, and carbon-emitting sectors to new technologies’.

Section 3 of HB 9 establishes the “climate, energy and water project fund” (the ‘Fund’) as a nonreverting fund in the state treasury. Money in this fund is to be used by the Division to make grants to eligible entities for the following purposes:

- For state matching funds for federal grants for clean energy projects;
- For pilot and demonstration projects for ‘clean energy, water and energy conservation technologies’; and
- For ‘studies and research concerning the development of clean energy and energy conservation’.

Eligible entities are state agencies, counties, municipalities, school districts, public post-secondary educational institutions, acequia associations, irrigation or conservancy districts, special water, drainage, irrigation or conservancy districts or other special districts created by law, Indian nations, tribes, or pueblos, and consortiums of any of the above entities.

Section 4 of HB 9 appropriates \$10 million to the Fund and \$5 million to EDD for the operation of the Division.

## **FISCAL IMPLICATIONS**

HB 9 has the potential for indeterminate, but significant, fiscal implications for EMNRD, as many of the duties and powers assigned to the Division overlap significantly with existing programs and duties assigned to EMNRD’s Energy, Conservation and Management Division, the State’s “Energy Office.”

Further, Section 2.B.3 of HB 9 allows the Division to ‘enter into agreements to share employees’ with EMNRD, along with other agencies. While EMNRD is supportive of this provision because it will help with the area of overlap above, it is unclear in HB 9 how employee sharing would work on a budgetary or supervision basis between two different state agencies, or how shared employees would be expected to balance their existing duties with duties required by the new Division. EMNRD assumes that shared employees would be paid for in full by their originating agency and would continue to be supervised by their originating agency, and that details of time splitting would have to be sorted out in those underlying agreements.

## **SIGNIFICANT ISSUES**

HB 9 proposes a much need office devoted to support of New Mexico’s climate, energy, and water programs focused on economic development through a single Division located within the Economic Development Department. This new Division fills a need within New Mexico, and even highlights the need for a discussion about how the state’s energy policy work is undertaken. There are significant advantages to consolidating these functions, particularly those which have an economic development nexus – i.e. supporting and incentivizing clean energy, decarbonization, and water conservation-focused companies to locate in, and serve, New Mexico.

However, as noted above HB 9’s enumeration of powers and duties of the new Division in EDD – a Division with a budget of only \$5 million, if fully funded – create potentially confusing overlap with existing programs, duties, and obligations at EMNRD, as well as at several other state agencies. Successfully managing these overlaps and duplications will be essential to allowing the new Division to be successful in working with climate, energy, and water technology companies. EMNRD anticipates that it will be able to resolve any potential conflicts administratively through coordination with this new Division, something that will be facilitated by the contemplated employee sharing. That said, over time a clearer legislative delineation may be necessary as the programs in these office grow

Details of the overlap, and suggestions to disambiguate the powers and duties of the new Division with those of EMNRD’s State Energy Office and other EMNRD Divisions follow below.

#### *Section 1A.1-3*

These three powers involve permitting for climate, energy and water projects.

- 1A.1 (‘permitting navigators’) and 1.A.2 (site location) are both projects that would be immensely helpful to companies looking to site in New Mexico and are not currently addressed by other entities. .
- 1A.3 asks the Division to make recommendations on streamlining permitting. While not explicitly stated, the Division should probably make these recommendations, at a minimum, in consultation with the entities charged with implementing such programs.

#### *Section 1A.4*

This section gives the Division the power to engage with international, regional, and national organizations on climate, energy, and water technologies and economics. Centralizing this engagement at EDD would be highly beneficial, but will need to be coordinated so as to not disrupt existing engagements (i.e. New Mexico’s relationship with the US Climate Alliance).

#### *Section 1A.5*

Workforce development is a critical component of the state’s energy transition and additional focus on the issue will be helpful; EMNRD simply notes that there are a number of there are extant relationships, grants, training programs, and other structures already in place between WSD, EDD, higher education institutions, the federal departments of Labor and Energy, EMNRD, and many others that address this function. Coordination will be key in this area to make a net add contribution.

#### *Section 1A.6*

This section charges the Division with engaging “directly” with Indian nations, tribes, and pueblos on “energy partnerships”. This is a duty assigned to the State Energy Office and the Department of Indian Affairs, particularly as ‘energy partnerships’ are partially defined as ‘serving as a

resource for grant opportunities’ (IAD is the clearinghouse for tribal grants), ‘workforce development’ and ‘industry relationships’.

#### *Section 1A.7*

This section related to federal grants is very general and provides no guidance for reconciling conflicts between potential state applications for a particular program. NMED, EMNRD and OSE administer a number of grant programs this section would affect – e.g., Solar for All (\$250 million), home energy rebates (approximately \$80 million dollars), grid resilience programs (\$14 million so far) – all housed at the State Energy Office. This lack of clarity may impact program implementation.

#### *Section 1A.8*

This section relates to ‘guidelines and rules for programs and grants for clean energy, water, and energy conservation technology pilot and demonstration projects’. It appears to directly conflict with EMNRD’s duties under the Grid Modernization Act and the Community Energy Efficiency Block Grant Act This conflict could be clarified by narrowing this provision to economic development projects.

#### *Section 1A.9*

EMNRD has no overlap concerns with this section. See *Technical Issues* below.

#### *Section 1A.10*

EMNRD see the value in centralized information hub and would be happy to contribute to this effort.

#### *Section 1A.11*

This authority is written very broadly and seems to sweep in every program in every state agency which could conceivably contribute to ‘decarbonization’. If the intent is to authorize the Division to run the ‘Decarbonization Program’ in Section B of HB 9, this section should be clarified to specify that.

#### *Section 1.B.1-2*

EMNRD has no overlap concerns here.

#### *Section 1.B.3*

See comments elsewhere regarding employee sharing.

#### *Section 2*

This section creates the ‘Decarbonization Program’ in the Division. The Program is intended to recruit climate, energy and water companies to New Mexico and promote the development of their technologies, bring pilot programs to commercialization, and otherwise promote this economic sector. EMNRD sees only opportunities for New Mexico, not conflicts or overlaps, with the Decarbonization Program as described. However, we do note that 2.E charges the Division with the very broad task of making “recommendations for policy and statutory changes”, and think the Division might benefit from clarification on what said changes are meant to accomplish and to require coordination when making recommendations that impact other agencies.

#### *Section 3*

This section creates the “climate, energy and water project fund,” and EMNRD supports the general purposes for which the fund might be used.

**PERFORMANCE IMPLICATIONS**

*See Significant Issues.*

**ADMINISTRATIVE IMPLICATIONS**

*See Comments regarding shared employees above. .*

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

In Section 1A.9 of HB 9, the Division is asked to write a two-year strategic plan and submit that plan every year. It is unclear whether the bill sponsors intend the Division to write a new strategic plan, covering the next two years, each year – or whether they intend the Division to write a two-year plan once every two years and update it in subsequent periods. We believe the latter is intended and clarification may be important.

**OTHER SUBSTANTIVE ISSUES****ALTERNATIVES**

N/A

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

The Climate, Energy and Water Division will not be created at EDD and some of its functions that do not currently exist in state government will not be supported by this new office and its associated funding.

**AMENDMENTS**

None.