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FISCAL IMPACT REPORT

SPONSOR Ingle ORIGINAL DATE 2/22/07 HB _____
LAST UPDATED _____
SHORT TITLE Legislative Review of Executive Rules SB SJR 14
ANALYST Fernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY07 | FY08 | FY09 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|---------|------|----------------------|-------------------------|------------------|
| Total | | Minimal | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 729 and HB685

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

New Mexico Environment Department (NMED)

Office of State Engineer (OSE)

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 14 proposes to amend the constitution to allow the Legislature to enact laws that prohibit regulatory rules of the executive branch from taking effect until reviewed and approved by the appropriate interim or standing committees of the Legislature.

FISCAL IMPLICATIONS

Secretary of State may incur additional expenses to place this proposal on the ballot at the next general election. The exact costs are unknown but should be minimal.

Both EMNRD and NMED indicate there may be fiscal implications to the agencies resulting from a delay in the implementation of rules and regulations while awaiting legislative review and approval. "Many rules adopted by EMNRD are required by federal law, and compliance with federal requirements, including funding requirements, may be impacted by delays."

SIGNIFICANT ISSUES

All agencies responding to SJR14 note the potential conflict of this proposal with Article III, Section 1 of the New Mexico Constitution relating to the separation of powers between the executive, judicial and legislative branches of government.

PED also indicates a conflict with the Executive Reorganization Act, which authorizes cabinet secretaries to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions."

NMED indicates a conflict with existing statutes that give certain boards and commissions the authority to approve regulations which allow them to carry out statutory mandates. For example, 74-1-5 NMSA 1978 allows the Environment Improvement Board to "promulgate all regulations applying to persons and entities outside of the department."

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

According to PED, SJR 14 relates to HB 729 which would enact the "Administrative Negotiated Rulemaking Act" and HB 685 which would enact the "Administrative Accountability Act."

CTF/nt