

**NMDOT BILL ANALYSIS
2024 REGULAR SESSION**

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 Date 1/22/2024
Correction Substitute Bill No. HB 124

Sponsor: Randall T. Pettigrew Agency/ Code: NMDOT - 805 – OGC
Admin Rule Oversight Person Writing Analysis: John Newell
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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 124 (HB 124) creates a legislative interim committee to formalize the legislature’s process for engagement with agency rulemaking action under the State Rules Act (NMSA 1978 Chapter 14 Article 4). Within two weeks of publication in the New Mexico Register of a notice of proposed rulemaking, the Interim Administrative Rule Oversight Committee (AROC) will review all notices of proposed rulemaking and create a written analysis of the rule. The written analysis shall consider the relation of the proposed rule to statute(s) authorizing rulemaking, the necessity of the proposed rule, the fiscal impact of the proposed rule if a fiscal impact statement is required by law, the legal implication of the rule, and the proposing agency’s compliance with the State Rules Act. Pursuant to the finding in the written analysis, the AROC may provide recommendations to the agency proposing the rule as well as recommend changes to the authorizing statute or statutes. HB 124 exempts emergency rulemaking from the AROC’s purview, and the AROC will not meet during a legislative session.

To further the purpose of the AROC, HB 124 amends the State Rules Act to require a fiscal impact statement in certain circumstances and to prescribe the content of any required fiscal impact statement. Specifically, HB 124 amends NMSA 1978 Section 14-4-5.2 to include a new subsection specifying that a notice of proposed rulemaking must include an estimated cost of implementing a

proposed rule and a fiscal impact statement if that estimated cost is greater than \$1,000,000. HB 124 also will create NMSA 1978 Section 14-4-5.9, which provides the required information to be provided in a fiscal impact statement and requires an agency to prepare a fiscal impact statement on the request of the AROC, even if the estimated implementation cost of a proposed rule is less than \$1,000,000.

HB 124 appropriates \$2,000,000 from the general fund for fiscal year 2025 expenditures to staff and operate the AROC. Unexpended funds shall revert at the end of fiscal year 2025.

FISCAL IMPLICATIONS

The fiscal implications of HB 124 on the NMDOT cannot be quantified at this time. Neither the number of rulemaking actions that would be impacted by HB 124 nor the cost of compliance with HB 124 can be determined. However, any required or requested fiscal impact statements will implicate additional costs over NMDOT's current rulemaking process. The NMDOT will at the least need to reallocate internal resources, and may need to engage the services of outside counsel or economists to assist in preparing required or requested impact statements. Additionally, any delay caused by requests for otherwise not required fiscal impact statements could delay rulemaking action, which may implicate federal funding if a rule has to be timely promulgated pursuant to federal law.

SIGNIFICANT ISSUES

HB 124 requires an agency to provide an estimated cost of implementation of a proposed rulemaking as part of the notice of proposed rulemaking. However, HB 124 does not define what costs should be included in the estimate, or whether such costs are to the agency during the rulemaking process or a projection of costs to the agency in administering a rule once it is promulgated.

PERFORMANCE IMPLICATIONS

The NMDOT oversees a variety of programs that require the department to promulgate new rules, amend existing rules, or repeal and replace existing rules based on changes in law, changes in rules promulgated by other government entities, and internal review of existing rules. The need to complete fiscal impact statements upon request of the AROC could impact the NMDOT's ability to promulgate new rules or update existing rules in a timely manner, especially in instances when state legislation or federal law makes it necessary for the NMDOT to promulgate new rules or update existing rules in a specific time frame in order to implement or update NMDOT programs.

ADMINISTRATIVE IMPLICATIONS

HB 124 will require the NMDOT to allocate staff time to perform cost estimates and any required or requested fiscal impact statements or oversee third parties performing cost estimates and any required or requested fiscal impact statements pursuant to a proposed rule.

Additionally, HB 124 will require the State Transportation Commission to update its Commission Policy 4, which governs the NMDOT's rulemaking process, as well as require the NMDOT amend its rulemaking administrative directive and rulemaking handbook.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

HB 124 is silent as to whether the provisions of the bill apply to in-process rulemaking that has been initiated before the effective date of July 1, 2024, should the bill become law.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMDOT rulemaking actions will proceed as before.

AMENDMENTS

None proposed.