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FISCAL IMPACT REPORT

SPONSOR Cheney DATE TYPED 2/07/05 HB 574

SHORT TITLE Legislative Hearings on Certain Rules SB _____

ANALYST Fernandez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB35

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Transportation (NMDOT)
 New Mexico Environment Department (NMED)
 Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 574 requires Legislative Council Service (LCS) to review proposed rules and designate appropriate interim committees to review rules proposed by the State Engineer, Environmental Improvement Board, Water Quality Control Commission, and Oil Conservation Commission prior to the rule becoming effective.

Significant Issues

House Bill 574 requires each proposed rule to be reviewed in a public hearing before the appropriate interim committee or Legislative Council Service within 90 days of the filing of the rule with the director of LCS.

Rules may be filed, published and become effective after a public hearing on the rule and after any other necessary public hearings are held.

Rules filed prior to July 1, 2005 shall continue in effect provided that they were filed in accordance with applicable law at the time of filing.

According to NMED, current statutes governing environmental laws provide for ample public input, and in fact have much broader public participation rules and requirements than most other states. Many of the rule-making hearings conducted by the department last more than 7 days due to the complexity and level of interest from the public. The department also indicates that interim legislative committees such as the Radioactive and Hazardous Materials Committee routinely hold public hearings on environmental issues including matters subject to rule making.

PERFORMANCE IMPLICATIONS

According to NMED, duplicative public hearings required by House Bill 574 could inhibit NMED from meeting its performance targets included in the General Appropriation Act.

According to EMNRD, the duplication of effort required by this bill may significantly impede the efforts of the boards and commissions to carry out their statutory duties.

FISCAL IMPLICATIONS

House Bill 574 does not include an appropriation to LCS for the additional duties. Depending on the number and duration of additional interim committee meetings, additional costs could be significant to LCS.

According to NMED, solid waste hearings can cost up to \$3,000 for a one-day hearing. Assuming 10 one-day hearings at \$3,000 costs cost be as much as \$30,000 per year. Multiple day hearings or hearings requiring testimony of expert witnesses could significantly increase the cost.

According to EMNRD, additional costs associated with House Bill 574 could be \$100,000 per year.

CONFLICTS

According to NMED, House Bill 574 conflicts with House Bill 35 which seeks to eliminate duplicative hearings before the Water Quality Control Commission.

TECHNICAL ISSUES

Both EMNRD and NMDOT raise concerns that House Bill 574 may violate the separation of powers doctrine.

CTF/sb