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## FISCAL IMPACT REPORT

LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 3/3/25

SPONSOR Pettigrew

BILL  
NUMBER House Bill 508

SHORT TITLE Rule Change Public Comment Period

ANALYST Hilla

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Publication Fees	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Taxation and Revenue Department (TRD)  
Regulation and Licensing Department (RLD)  
Commission of Public Records (CPR)  
Public Regulation Commission (PRC)  
Health Care Authority (HCA)  
Department of Health (DOH)

#### Agency Analysis was Solicited but Not Received From

Energy, Minerals and Natural Resources Department (EMNRD)

## SUMMARY

### Synopsis of House Bill 508

House Bill 508 (HB508) amends the State Rules Act in Section 14-4-2 NMSA 1978 to add the definition of “substantial change” as a proposed rule that alters the meaning or effect of a regulatory provision of the rule. HB508 adds a new section to the State Rules Act to require agencies making substantial changes to provide an additional 21-day public comment period on the changes made to the proposed rule. Agencies that make substantial changes to a proposed rule shall provide to the public and publish in the New Mexico Register a notice of additional public comment periods. Public comments can be made in either written or electronic forms. The agency is to only consider public comments made in the 21-day window.

The notice of additional public comment periods shall contain:

- Summary of the changes made to the proposed rule;
- Citation to any technical information that served as the basis for the substantial change;
- Information on how a person may comment or submit information on the changes to the proposed rule;

- Information on how to obtain a copy of the full text of the proposed rule; and
- A link providing free access to the full text of the proposed rule.

The State Records Administrator shall publish the notice of additional public comment period in the next publication of the New Mexico Register. Agencies may charge fees for providing records in a nonelectronic format but may not charge a fee when providing records electronically.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The fiscal implications of HB508 may increase costs associated with the publication of additional notices in the New Mexico Register anytime an agency seeks to make a substantial change to a proposed rule. Agencies pay for the publication in the New Mexico Register at a range of \$75 to \$85 per page. The Commission of Public Records' (CPR) guidelines recommend agencies to procure a purchase order for no less than \$320 for rulemakings with four pages notices. Depending on how often agencies are updating rules, this cost is indeterminate but minimal for publication expenses, given the provisions of the bill only affect "substantial changes" to a proposed rule. However, CPR states that, should there be an increase in published written material, the costs of publication would increase depending on the number of substantial comments made.

## SIGNIFICANT ISSUES

The Health Care Authority (HCA), the Taxation and Revenue Department (TRD), and the Department of Health (DOH) note concerns of the bill's use of "substantial." TRD states that, while HB508's use of a "substantial change" is open to interpretation, a broad interpretation of the language would support the objective of the State Rules Act to encourage transparency and public involvement in the rulemaking process. HCA, however, states the bill does not indicate who is responsible for determining if a rule constitutes a substantial change or how that determination would be done, adding that if the bill intends to add more time for public input, "that can be proposed without the complicating definition."

DOH states that the bill's extension of public comment for substantial changes would create various problems and make it less likely for an agency to adopt changes based on the additional public comments. DOH states:

The bill states that "[a] substantial change to a proposed rule does not require an additional public rule hearing." However, even if a substantial change did not require an additional public rule hearing, the adoption of further revisions to a rule based on those additional public comments would ordinarily require that the agency hold an additional hearing prior to adoption of the revisions. *See* 1.24.25.14 NMAC (stating that "[a]mendments that exceed the scope of the noticed rulemaking may require a new rulemaking proceeding"). Because HB508 would require that additional public comments be received and considered *after* a rule becomes effective, it would create the potential for an endless rulemaking cycle, wherein a final rule is adopted; more public comments are received post-adoption; more "substantial changes" are made based on the new

comments; another hearing is held; more public comments proposing substantial changes are received; etc.

The Regulation and Licensing Department notes the bill does not consider the public comment extensions regarding emergency rulemaking progress under the State Rules Act, and if there is an exception to the public comment period in emergency situations.

## **PERFORMANCE IMPLICATIONS**

The Public Regulation Commission states that extending the public comment period could delay rulemaking, impacting the commission's ability to implement required regulations.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB508 relates to House Bill 425, which makes similar rulemaking changes for state agencies, requiring agencies to respond to each public comment on a proposed rule. The bill also relates to House Bill 358, which would create an interim legislative committee to review rules proposed by an executive agency. House Joint Resolution 19 creates a legislative administrative oversight committee, similar to House Bill 358, but through a constitutional amendment as opposed to a statutory change.

EH/hj/SL2