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FISCAL IMPACT REPORT

ORIGINAL DATE 2/05/09

SPONSOR M. H. Garcia LAST UPDATED _____ HB 574

SHORT TITLE Create Administrative Procedures Task Force SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$150.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

HB 574 relates to HB 45, HB 575, HB 576, SB 18, and HJR 6 as they all deal with administrative procedures. See the narrative section "RELATIONSHIP."

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Commission on Public Records (CPR)
 Energy, Minerals, and Natural Resources Department (ENMRD)
 New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 574 creates the Administrative Procedures Task Force" to accomplish the following objectives.

1. Review the 2009 model Administrative Procedures Act to be released by the National Conference of Administrators on Commissioners on Uniform State Laws

2. Review rulemaking and adjudicatory systems in other states.
3. Consider whether the proposed model act should apply to most, if not all, state agencies.
4. Consider whether broad-based reform will enhance consistency and predictability and meet the goals necessary to serve the citizens and businesses of New Mexico more effectively.
5. Identify strategies for improving the essential rulemaking and adjudicatory functions of state agencies in order to carry out legislative mandates effectively.
6. Determine necessary legislative action to improve administrative procedures and develop a strategy and time line for implementation of any recommended changes.

The task force will consist of seventeen individuals, and staff for the task force will be provided by the Legislative Council Service with expertise provided by the State Records Administrator or the Administrator's designee. The bill stipulates that the Task Force shall meet at least four times a year. The task force will function from July 1, 2009 to December 15, 2012. The bill requires the Task Force to report to the Governor and Legislature before the 2010, 2011 and 2012 legislative sessions.

FISCAL IMPLICATIONS

The appropriation of \$150.0 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the General Fund.

Members of the task force would be entitled to per diem and mileage only and receive no other compensation.

SIGNIFICANT ISSUES

According to the Commission on Public Records, House Bill 574 could have a fiscal impact on the commission of public records if the director of the administrative law division were to provide staff support for the committee. The size of the fiscal impact is difficult to quantify because it is not known what type of service will be required by the committee. The appropriation is made to the Legislative Council Service; no provision is made for any costs incurred by the commission.

According to the Attorney General's Office, the State Records Center and Archives is part of the Executive Branch of state government. See NMSA Section 14-3-8 (1978). This bill would require the Director of its Administrative Law Division to provide staff support for a legislative committee. Requiring an executive agency to provide staff for a legislative committee may violate Article III Section 1 of the New Mexico Constitution, commonly referred to as the "Separation of Powers" clause.

The NMED states that the task force is too large with a membership of seventeen, and that a smaller group could more effectively work through procedural and due process requirements for

administrative agencies, boards and commissions.

RELATIONSHIP

House Bill 45 and House Bill 575 would require a “regulatory impact statement” before a state agency promulgated new rules.

House Bill 476 requires timely action by regulatory agencies and limits the time allowed for a state agency to sanction a business over which it has jurisdiction.

House Joint Resolution 6 proposes a constitutional amendment that would permit legislative review and annulment of Executive Branch rules.

Senate Bill 18 would allow a department secretary to create committees for the purpose of developing rules.

CH/mt