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FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/13

SPONSOR Martinez, K./Sanchez, M. LAST UPDATED 02/25/13 HB 546/aHJC

SHORT TITLE Compilation of Certain Amendments Into Law SB _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Compilation Commission (NMCC)

Administrative Office of the Courts (AOC)

Attorney General’s Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 546 clarifies that the “section” referenced in line 20 on page 2 (which is to be set forth in the annotations) refers to the section of any earlier signed act with which the compiled section irreconcilably conflicts. Additionally, the amendment adds an Emergency Clause to the bill.

Synopsis of Original Bill

House Bill 546 (HB 546) amends the statute governing the compilation into the statutes of two or more acts that are enacted during the same session of the legislature and that amend the same section of law. The bill provides that if, after consultation with the Legislative Council Service (LCS), the New Mexico Compilation Commission (NMCC) (the agency charged with compiling acts into the statutes) determines that the provisions of one or more of the earlier signed acts can be reconciled with the act that is to be compiled (the act last signed by the governor), those provisions shall be incorporated into the last-signed act and compiled in the New Mexico Statutes Annotated (NMSA). It also clarifies the portion of the statute governing the handling of truly irreconcilable acts.

The bill contains a temporary provision that allows multiple amendments to the same section of law that were enacted before the effective date of HB 546 be reconciled and compiled using the process set forth in the bill.

FISCAL IMPLICATIONS

Responding agencies report no fiscal impact.

SIGNIFICANT ISSUES

The intent of the legislature will be more fully and accurately reflected in the statutes compiled in NMSA under HB 546 because bills that are ultimately enacted during the same session that amend the same section of a law and do not conflict with each other will be included in those statutes.

Currently, only the last-signed act is compiled in the law, and an earlier-signed act appears only in the annotations to the section of law which it amends, where it is often overlooked and its significance not recognized. HB 546 changes this process by allowing the NMCC to consult with the LCS to determine if the changes made by separate acts to the same section of law can be read together without cancelling each other out. To the extent they can be read together, they are incorporated into the last-signed act. Rather than sifting through the compiler's notes, agencies will be able to find and apply the law that actually was enacted by the legislature.

The reconciliation process authorized under HB 546 renders the compilation process more consistent with other existing law, as well. The relevant section of the Uniform Statute and Rule Construction Act, codified at Section 12-2A-10, NMSA 1978, directs that "If statutes appear to conflict, they must be construed, if possible, to give effect to each." Under the circumstances addressed in HB 546, that principle of statutory construction is employed and it is only when a conflict is truly irreconcilable that the later-signed and enacted act appears in the statutes.

Likewise, the bill's provisions put into statute the ruling of the New Mexico Supreme Court in State v Smith, 2004-NMSC-032, 136 N.M. 372, 98 P.3d 1022 (2004). In Smith, three acts amending the DWI law were enacted at the same session of the legislature, were signed by the governor on different dates, and had different effective dates. The court found that the language of the three enactments, in addition to their titles and purposes, indicated that the objective of the legislature was to make specific, independent improvements to the same section of law, and permitted the three acts to be construed harmoniously to give effect to each act. In its analysis, the Smith court noted that when in the course of amending an existing law, the legislature's bill restates that existing law to the extent the bill does not seek to change it, that process is required by the New Mexico Constitution, and courts are not obliged to read into the last-signed act a repeal by implication of other legislation passed in the same session.

HB 546 leaves in place the directives governing compilation of the last-signed act when multiple acts enacted during the same legislative session to the same section of existing law are irreconcilable based on the presumption that that last-signed act is the law, but clarifies that rule applies when the irreconcilable changes pertain to the same section of law (rather than the more general phrase "same subject matter"). In this instance, under the existing law, the annotations to that section of law must set forth the text of any irreconcilable act, which could include any number of sections amending any number of other sections of law that are not related to the

particular section being annotated. HB 546 limits application of that publication requirement to only the relevant section of an earlier-signed irreconcilable act.

TECHNICAL ISSUES

Page 2, line 20: Following the word “section” add the phrase “of any earlier-signed act” to clarify which section is being referenced.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Provisions of law duly enacted by the legislature that do not conflict with a later-signed act passed during the same session may be buried in annotations where agencies and others tasked with knowing and applying the state’s law may fail to use or enforce them.

MD/svb:blm