

LFC Requester:

Emily Hilla

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 2/14/25

Check all that apply:

Bill Number: HB425

Original  Correction Amendment  Substitute 

Sponsor: Rep. Gail Armstrong

Short Title: Rulemaking Agency Response to Public Comment

Agency Name

and Code HCA 630

Number:

Person Writing John Emery

Phone: Email [johnr.emery@hca.nm](mailto:johnr.emery@hca.nm)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	-	-

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	-	-

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	-	-	-	-	-	-

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

The bill amends the State Records Act, NMSA 1978 Sec. 14-4-1, *et seq.*, to require that an agency promulgating a rule respond in writing to each public comment submitted during the comment period and that all responses be published with the rule in the New Mexico Register.

#### **FISCAL IMPLICATIONS**

Agencies pay for publication in the New Mexico Register based on the size of the publication and responding to each comment in writing will require more staff time. HB 424 may increase the cost of promulgating rules, dependent on the number of comments received.

Agencies with limited staffing and resources may face significant publication costs if the volume of responses is large.

#### **SIGNIFICANT ISSUES**

Under HB425 an organization or person could extremely delay or even stop a proposed regulation they may not agree with by submitting an inordinate number of comments and overburdening the agency. There is no limit on the number of comments that can be submitted and therefore no limit on the number of comments that would have to be responded to in writing. There also is no requirement that a comment be germane to a proposed rule. The Bill opens the possibility of many hours of taxpayer-paid staff time being spent on duplicative, irrelevant, and non-germane comments.

Public comments can be made orally at a public hearing, and HB425 would require a written response to all oral comments. This puts a significant burden on agencies with regard to oral comments and increases the chances that a regulation will be challenged post promulgation, thereby costing the state time and resources.

Adoption of the amendment will increase staff time in the rulemaking process to respond to public comments and will likely extend the time of the rulemaking process to provide the written responses.

#### **PERFORMANCE IMPLICATIONS**

If agencies fail to provide a written response to every comment, including those deemed non-germane or frivolous, it could lead to legal challenges and regulatory delays.

#### **ADMINISTRATIVE IMPLICATIONS**

No IT impact.

Agencies with limited staffing and resources may experience disproportionate difficulty complying with the requirement.

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

Amendment of the State Records Act, NMSA 1978 Sec. 14-4-1, *et seq.*

**TECHNICAL ISSUES**

None

**OTHER SUBSTANTIVE ISSUES**

None

**ALTERNATIVES**

Consideration of a provision allowing agencies to consolidate responses to identical or substantially similar comments to avoid redundancy and excessive administrative burden.

Setting clear parameters around the types of comments that require responses (e.g., only those directly related to the rule's substance).

Establishing a process for summarizing oral comments rather than requiring individual written responses to each oral comment.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS**

None