

LFC Requester:	Emily Hilla
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to 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: 2/14/2025 *Check all that apply:*
Bill Number: SB425 Original Correction
 Amendment Substitute

Sponsor: Gail Armstrong, Rebecca Dow, and Christina Parajon **Agency Name and Code** 790 – Department of Public Safety
Short Title: Rulemaking Agency Response to Public Comment **Number:** _____
Person Writing Julie Gallardo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

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

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

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

(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

House Bill 425 (HB425) amends the State Rules Act to require state agencies to respond in writing to public comments on a proposed rule before the rule is promulgated; requires responses to be published in the New Mexico Register.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

Pursuant to NMSA 1978, Section 14-4-2, ““agency” means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches of the state government.” This bill requires that any agency trying to promulgate a rule has to publish it in the New Mexico register and solicit and respond to every single public comment about the rule individually and uniquely. According to the State Personnel Office website, there are approximately 68 executive state agencies, boards, and commissions. The strict provisions in this bill would create a significantly larger amount of work for agencies.

The requirement for agencies to respond in writing to each individual public comment in a detailed, fact-specific manner creates a significant administrative burden. Agencies may already be understaffed or overburdened with other duties and requiring them to dedicate considerable time and resources to respond to every comment could divert attention from more pressing responsibilities. The additional layer of responding to each comment in writing could lead to extensive delays in the rulemaking process. Agencies may need to review and address potentially thousands of comments, resulting in longer timelines for rules to be finalized. This could slow down the implementation of important regulations, delaying benefits to the public that rely on timely agency action.

Agencies may become more vulnerable to litigation under the proposed rulemaking process. If public comments are not addressed in the precise way the bill mandates (fact-specific, unique, in writing, etc.), opponents could argue that the agency failed to comply with the law, potentially invalidating the rule. This creates additional risks for agencies, which may face legal challenges that delay or block the rule. Moreover, the requirement to address the impact of each public comment may lead to increased judicial scrutiny of the rulemaking process. Courts may be called upon to interpret whether responses to comments were sufficiently fact-based or adequately addressed concerns. This could open agencies to legal battles over technicalities rather than the substance of the rules themselves, further complicating the process. Additionally, it would put additional strain on the judiciary that is already overburdened.

In cases where rules need to be implemented rapidly, the proposed bill’s requirements for responding to every comment could create an insurmountable delay. For example, if a new rule is required in response to an urgent public safety issue, the extensive time requirements for responding to every comment would delay the rule’s adoption, potentially undermining the agency’s ability to address the issue in a timely manner.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

None at this time.