



(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

State Rules Act, Section 14-4-1 et seq., NMSA 1978 (“Rules Act”).

HB 358, Pettigrew, Interim Admin. Rules Oversight Committee

HB 360, Pettigrew, Rulemaking Info to State Legislators

Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 452 (“bill”) amends the Rules Act to require a rulemaking agency to respond in writing to every public comment on every proposed rule. A written response by a rulemaking agency is required to be unique to each public comment, fact-specific to concerns of comment, address impact of comment on proposed rule, and published with rule in New Mexico Register (“Register”). The bill amends the Rules Act to require the Register to publish public comments to proposed rules.

#### **FISCAL IMPLICATIONS**

As a rule-filing agency, for SRCA (and all rule filing agencies), the potential fiscal impact of requiring rulemaking staff to cull and respond to every written public comment received could be time-consuming, depending on the number of comments received. Because there would be an increase in published written material, the costs of publication would increase again depending on the number of comments received.

As the publisher of the Register, the agency would be capable of adding public comments/agency responses to its publishing responsibilities. The increase in publishing written comments/agency responses would have an indeterminate increase in revenue collected from rulemaking agencies.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

#### **SIGNIFICANT ISSUES**

The Rules Act already requires that an agency compile findings in its concise explanatory statement. See, Section 14-4-5.5 NMSA 1978, Subsection F of 1.24.25.14 NMAC. Would an agency be able to compile all its written, comment-specific responses received during the public comment period on proposed rules and make that compilation as an exhibit to be considered at the rulemaking hearing? Also, does this bill only apply to public comments received during the

public comment period BEFORE the rule hearing or do the provisions also apply to public comments made during the rule hearing?

The bill requires that the Register publishes agency responses to public comments. It is silent as to whether the original public comments are also to be published. Would an agency be able to summarize public comments generally in its response to be published? Or is the intention of the bill to have both public comments and agency responses to be published?

#### **PERFORMANCE IMPLICATIONS**

See, Significant Issues and Fiscal Implications above.

#### **ADMINISTRATIVE IMPLICATIONS**

See, Significant Issues and Fiscal Implications above.

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

See, Significant Issues and Fiscal Implications above.

#### **TECHNICAL ISSUES**

See, Significant Issues and Fiscal Implications above.

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

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

#### **AMENDMENTS**