

LFC Requester:

Joseph Simon

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/21/2025

Check all that apply:

Bill Number: House Bill 524

Original Correction
Amendment Substitute

Sponsor: Rep. Meredith A. Dixon

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: ADVANCE PURCHASE COMMITMENTS PROGRAM

Person Writing Analysis: Blaine N. Moffatt
Phone: 505-537-7676
Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(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 | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: House Bill 524 (“HB524”) would require the Department of Transportation (the “Department”) to create a program for awarding the advance purchase of low-emissions cement, concrete, asphalt binder, or asphalt mixtures from private companies.

Subsection A would require the Department to establish a program for the awarding of advance purchase commitments with the objective of encouraging innovation and emissions reductions and establishing market demand for low-emissions cement, concrete, asphalt binder or asphalt mixtures. An advance purchase commitment may be awarded under the program only if: (1) a private entity submits to the department a statement describing the quantity and cost, submit an environmental product declaration, or other declaration if the private company cannot provide one; and (2) the Department verifies that the submission meets or exceeds the threshold established by the United States secretary of energy under Section 458(i)(2) of the federal Energy Independence and Security Act of 2007 and meets requirements of the Department.

Subsection B describes the ways in which the Department shall prioritize the awards. These include the degree of greenhouse reduction, the anticipated suitability, the potential of the advance purchase to increase availability of or financing for, and the utilization or mineralization of carbon dioxide.

Subsection C provides that the Department Secretary may in his or her discretion provide such awarded contract or material purchased to a local transportation authority.

Subsection D provides applicable definitions for HB524. “Advance purchase commitment” means a binding commitment from the department to purchase, three or more years in the future, from a private entity, a specified minimum quantity of conforming low-emissions cement, concrete, asphalt binder or asphalt mixtures at a specified minimum price and that “Department” means the Department of Transportation.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

HB524 could conflict with the Procurement Code. The purposes of the Procurement Code are to provide for the fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity. NMSA 1978, Section 13-1-29(C). The Procurement Code applies “to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property, services and construction.” NMSA 1978, Section 13-1-30(A). In general a government body’s purchase of goods or services under the Procurement Code must proceed in one of two ways: (1) solicitation of competitive sealed bids, see NMSA 1978, Section 13-1-102; or (2) an invitation for sealed proposals, see NMSA 1978, Section 13-1-111. The default rule is that all procurements must take place through competitive sealed bids. *See* NMSA 1978, Section 13-1-102 (providing both the default rule and the exceptions thereto). HB524 does not describe whether the applicants and awards are subject to the Procurement Code.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A