

<b>LFC Requester:</b>	<b>Jonas Armstrong</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

Check all that apply:  
**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** February 3, 2015  
**Bill No:** SB 389

**Sponsor:** Sen. Carroll Leavell  
**Short**    Oil & Gas Rule Appeal  
**Title:**    Requirements

**Agency Code:** Attorney General's Office  
**Person Writing**    P. Cholla Khoury, AAG  
**Phone:** 827-7484    **Email** ckhoury@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<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**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis:

SB 389 creates a requirement that a hearing be held prior to any rule being adopted pursuant to the Oil and Gas Act. SB 389 requires that all rules adopted pursuant to the Oil and Gas Act shall not be filed, in accordance with the State Rules Act, until the later of twenty days after the Oil Conservation Commission (“Commission”) has entered an order or has refused a rehearing pursuant to NMSA 1978, § 70-2-25.

SB 389 creates a right to appeal to the court of appeals within thirty days of the filing of a rule. The appeal shall be on the record and only set aside if the rule is arbitrary, capricious or an abuse of discretion, not supported by substantial evidence or otherwise not in accordance with law.

SB 389 defines “rule” as including the amendment or repeal of a rule.

**FISCAL IMPLICATIONS**

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**

N/A

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

While SB 389 does not set forth the procedures for public participation in a rulemaking hearing, Section 70-2-7 of the Oil and Gas Act provides that such procedures shall be set forth in rule by the Commission. The Commission has set forth hearing procedures in 19.15.3 NMAC.

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

N/A

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

Appeal of rules promulgated by the Commission will continue to be done by petition of writ of certiorari to a district court.

The Commission will continue to be able to file rules with the State Records Center prior to an opportunity for the Commission to decide or to refuse to decide an application for rehearing pursuant to NMSA 1978, § 70-2-25.

**AMENDMENTS**

N/A