

LFC Requester:	Austin Davidson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

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

Date 1/17/23
Bill No: HJR 2

Sponsor: Rep. Matthew McQueen
Short Eliminate Pocket Vetoes, CA
Title: _____

Agency Name and Code AOC
Number: 218
Person Writing Kathleen Sabo
Phone: 505-827-4813 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HJR 2 proposes to amend Article 4, Section 22 of the Constitution of NM to eliminate the pocket veto, as follows:

- Subsection A: require the governor to veto a bill passed by the legislature, if the governor disapproves of it.
- Subsection B: remove the provision that unless a bill presented to the governor during the last three days is approved and signed by the governor within 20 days of adjournment, the bill does not become law. Instead, HJR 2 proposes that a bill presented to the governor during the last three days of the session is required to be approved or vetoed by the governor within 20 days of adjournment, and, unless vetoed by the governor, such a bill passed by the legislature shall become law.
- Subsection D: requires the governor, when returning a veto pursuant to Subsection A, to provide an explanation for the veto.

HJR 2 also makes technical changes to Article 4, Section 22.

HJR 2 requires the proposed amendment be submitted to voters for approval or rejection at the next general election or at any special election prior to that date.

FISCAL IMPLICATIONS

Any burden to the judiciary would be as a result to challenges to the proposed constitutional amendment, should it be approved by the voters.

SIGNIFICANT ISSUES

- 1) In 2021, SJR 2 was introduced, seeking to eliminate the pocket veto. SJR 2 was substantially similar to 2024's HJR 2, requiring the governor to provide an explanation for each veto.

The FIR for 2021's SJR 2 contained a table compiled by the Legislative Council Service, showing that from 2010 to 2020, the governor vetoed 423 bills presented by the legislature, and that, of these, 221 bills, or more than half of the vetoed bills, were not approved and were pocket vetoed, after the legislature adjourned.

The FIR also contained the following objections to SJR 2 from the Office of the

Governor:

- Eliminating the governor’s pocket veto authority would be a significant intrusion into the governor’s pocket veto authority would be a significant intrusion into the governor’s executive authority and would disrupt the balance of power contemplated by the NM Constitution. The Office of the Governor opines that, “A governor’s constitutionally valued discretion should not be removed from the veto power conferred by the state constitution.
 - The requirement that the governor provide a written explanation for every veto would chill a governor’s use of the veto power by creating an unnecessary burden to explain every veto.
 - SJR 2 would not guarantee any additional transparency, as there are no enforceable standards for the required veto explanation.
- 2) In reporting on the proposed HJR 2 and other joint resolutions seeking to change how bills are passed in the NM legislature, Source NM reported that after the last session, Governor Michelle Lujan Grisham left 21 pieces of legislation unsigned. See “*Lawmaker proposes taking away governor’s power to ‘pocket veto’*”, Austin Fisher, January 5, 2024, at <https://sourcennm.com/2024/01/05/lawmaker-proposes-taking-away-governors-power-to-pocket-veto/>.
- 3) In Colorado, when a bill is sent to the Governor, he or she has three options:
- The Governor may sign the bill, and the bill becomes law;
 - The Governor may let the bill become law without signature; or
 - The Governor may veto the bill. If the Governor vetoes the bill while the General Assembly is still in session, the Governor will return the bill to the house of introduction along with the veto message. The General Assembly can override the Governor's veto if both chambers of the General Assembly repass the bill with a two-thirds majority vote from each chamber. If the General Assembly has adjourned, there is no opportunity for an override. See <https://leg.colorado.gov/agencies/office-legislative-legal-services/legislative-process-0> . See also Article IV, Section 11 of the Colorado Constitution.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. It does not appear that this joint resolution will have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

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