

LFC Requester:	Leger
-----------------------	--------------

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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 2/12/2025
Bill No: HB 358

Sponsor: Pettigrew
Short Title: INTERIM ADMIN. RULES
OVERSIGHT COMMITTEE

Agency Name and Code Number: Commission of Public Records
36900
Person Writing: Matthew Ortiz
Phone: 476-7941 **Email:** matt.ortiz@srca.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	n/a	
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	indeterminate	indeterminate	indeterminate	n/a	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

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

Public Records Act, Section 14-3-1 et seq., NMSA 1978.

HB 360, Pettigrew, Rulemaking Info to State Legislators

HJM 02, S. Herrera et al., Combine Standing & Interim Committees

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 358 (“bill”) creates an interim legislative committee that is charged with meeting at least once per month to review proposed rules, review fiscal impacts and committee staff analyses, make recommendations to rulemaking agencies, and recommend legislative changes to authorizing statutes of rulemaking agencies or eliminate rulemaking authority for agencies. The bill authorizes no more than four staff and appropriates two million dollars for operation of interim committee.

Section 4 of bill requires legislative council service (“LCS”) to distribute received notices of rulemaking to interim committee members and staff. Committee staff is charged with developing a written analysis of proposed rules that considers: relation to scope of authorizing statute, necessity of proposed rule, the ‘fiscal impact’ of proposed rule, legal implications of rule on proposed federal and state law, and agency’s compliance with notice requirements under Rules Act. The committee and its staff would be allowed to request a fiscal impact from the agency even if the impact of the rule does not exceed one million dollars. The committee staff shall provide its written analysis to committee at least ten days prior to any meeting. The committee shall review the proposed rule and approve agency recommendations. Committee staff shall then transmit the committee recommendations to the agency during the public comment period. The written recommendations shall also be shared with the attorney general and governor offices.

Section 5 of the bill amends Section 5.2 of the Rules Act to require an agency to provide in any notice an “estimate of cost of implementing the proposed rule, and a ‘fiscal impact report’ if cost of implementing the proposed rule exceeds one million dollars.

Section 6 of the bill creates a new section in the Rules Act (section 5.9) that defines the requirements for a ‘fiscal impact report’ that requires a rulemaking agency: to include the fiscal impact on other agencies, municipalities, counties, business sectors, and other entities impacted ; to identify the necessity for any proposed rule; statement of whether and how rule is consistent with legislative intent of authorizing statute; whether rule amounts to a mandate on counties and municipalities; and whether mandate is funded or unfunded; and whether rule is necessary to

comply with federal mandate.

FISCAL IMPLICATIONS

As a rule-filing agency, for SRCA (and all rule filing agencies), the potential fiscal impact of requiring a fiscal impact study would be significant. Because of the vagueness and broad language of the requirements, any rule filing agency could be severely compromised by the added bureaucratic layers and the delay necessitated by the increase in time required by administrative review and oversight by interim committee. Again, because the bill language is overbroad, it is impossible to quantify the cost of complying with the fiscal impact study requirements.

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 elements required under the fiscal impact study:

- a) the fiscal impact on other agencies, municipalities, counties, business sectors, and other entities impacted,
- b) to identify the necessity for any proposed rule,
- c) statement of whether and how rule is consistent with legislative intent of authorizing statute, and
- d) whether rule amounts to a mandate on counties and municipalities,
- e) whether mandate is funded or unfunded, and
- f) whether rule is necessary to comply with federal mandate.

are self-referential, too simplistic, overbroad and vague. The element requesting consistency with legislative intent would be nearly impossible, given that legislative intent is specifically not authorized. Because each of these elements does not have guidance, nor are they sufficiently defined, each agency would be able to determine for itself what level of specificity would be responsive to each element. The consequence of having different levels of specificity would place a burden on the rulemaking agency, the LCS and interim staff and committee, to parse whether there is sufficient responsive information to analyze.

The proposed review process by the interim committee meeting monthly may result in a great deal more delay and uncertainty with rulemaking process. Furthermore, there appears to be no role for subject matter experts from the rulemaking agencies after the proposed notice / proposed rules are given over to LSC and interim committee. Staff for interim committee would be charged with becoming experts on all agency subject matters in making their committee analysis. If the intent of the agency's rulemaking is not thoroughly understood by interim staff, then the recommendations they give to the committee and the resultant recommendations back to the agency by committee may result in additional delay, because the agency need for the rule was not understood by the committee or its staff.

Most of the requirements contained in Section 4 of the bill have already been included in existing Rules Act requirements. Rulemaking agencies are already required to provide LCS with notices

of rulemaking. See, paragraph (7) of Subsection E of Section 14-4-2.

PERFORMANCE IMPLICATIONS

See, Significant Issues above.

ADMINISTRATIVE IMPLICATIONS

See, Significant Issues above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See, Significant Issues above.

TECHNICAL ISSUES

See, Significant Issues above.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS