

<b>LFC Requester:</b>	<b>Jeannae Leger</b>
-----------------------	----------------------

**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** February 13, 2025  
**Bill No:** HB 358

**Sponsor:** Rep. Pettigrew  
**Short Title:** Interim Admin. Rules Committee

**Agency Name and Code** Regulation and Licensing Department - 420  
**Number:** \_\_\_\_\_  
**Person Writing** Lori Chavez  
**Phone:** 505-469-2728 **Email** Lori.chavez1@rld.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	2,000	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	None	None

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		10 - 120	10 - 120	20 - 240	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2025 HB 168 - Construction Cost Studies.

Duplicates/Relates to Appropriation in the General Appropriation Act: n/a

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

SECTION 1: HB 358 creates a new section in chapter 2 of the legislative branch establishing a new Interim Administrative Rule Oversight Committee (“IAROC”) comprised of equal representatives from both the house and senate and majority and minority leaders. Members shall be appointed for two (2) year terms; however, a member may be removed at any time by the member’s appointing authority. The IAROC shall meet no less than one (1) time per month during the interim session.

SECTION 2: HB 358 establishes the powers and duties for the IAROC to:

1. Review administrative rules proposed by an executive agency;  
[Staff from the Legislative Council Service are to be assigned to the IAROC to provide analysis of all proposed rules and fiscal impacts associated with the rules two (2) weeks prior to the public rule hearing for all proposed rules except during the legislative session;
2. Make recommendations on the rules];
3. Recommend changes to the statutes that authorize rulemaking to clarify legislative intent; and
4. Direct the work of the IAROC staff.

HB 358 authorizes the IAROC to endorse legislation as necessary to amend or repeal a statute authorizing an agency to promulgate rules.

SECTION 3: HB 358 allows the Legislative Council Service to hire no more than four (4) staff to assist the IAROC.

SECTION 4: HB 358 requires the Legislative Council Service to distribute notices of any proposed rules to the IAROC and for staff to prepare an analysis of each proposed rule considering:

1. Applicable authorizing statutes;
2. Necessity of proposed rules;
3. Fiscal impacts of rules;
4. Legal implications on federal and state law; and

## 5. Compliance with notice requirements under the State Rules Act.

HB 358 requires each state agency proposing administrative rules to provide a fiscal impact statement if the financial impact of a proposed rulemaking exceeds one million dollars (\$1,000,000) and allows the IAROC to request a fiscal impact statement from the agency proposing a rule even if the rule does not have a fiscal impact of more than one million dollars (\$1,000,000).

SECTION 4: HB 358 requires the Legislative Council Service staff assigned to the IAROC to provide written analysis on proposed rules at least ten (10) days prior to the IAROC's review of the proposed rules and provide the IAROC's approved recommendations in writing to the state department of justice, the governor, and the agency that has proposed the rules during the public comment period for each proposed rulemaking.

This new act does not apply to emergency rules as provided by the State Rules Act.

SECTION 5: HB 358 amends Section 14-4-5.2 of the State Rules Act to require the agency to include an estimated cost for implementing the proposed rule, including a fiscal impact statement pursuant to Section 14-4-5.9 if the cost of implementing the proposed rules is estimated to be greater than one million dollars (\$1,000,000).

SECTION 6: HB 358 creates a new section of the State Rules Act, Section 14-4-5.9 that requires the agency to provide a fiscal impact statement for rules that will have a fiscal impact of one million dollars (\$1,000,000) or more to include:

1. The fiscal impact of the rule on other agencies, municipalities, counties, business sectors and other entities;
2. The necessity of the rule;
3. A statement of how the rule is consistent with legislative intent of the authorizing statute;
4. If the rule imposes a mandate on counties and municipalities, whether the mandate is funded or unfunded; and
5. Whether the rule is required in order to comply with a federal mandate.

HB 368's new section to the State Rules Act also allows the IAROC to request a fiscal impact statement from an agency that is proposing rules even if the proposed rules does not have a fiscal impact exceeding one million dollars (\$1,000,000).

SECTION 7: HB 368 appropriates two million dollars (\$2,000,000) to fund the Legislative Council Service staff assigned to the IAROC and other costs incidental to establishing the IAROC. Unexpended or unencumbered funds at the end of fiscal year 2026 shall revert to the general fund.

## **FISCAL IMPLICATIONS**

In summary, the fiscal implications to every agency subject to compliance of the State Rules Act may include hiring one (1) or more professional economists who would prepare a cost analysis for each new administrative rule proposed by the agency. Additional costs to each agency would include all associated personnel costs for the new economist(s) as well as any necessary consultation fees. It can be expected that development of the data required to provide valid

estimates of projected costs for rulemaking actions impacting counties or municipalities would include a host of factors such as potential reallocation existing resources, potential increased operational costs, short-term and long-term effects on local economic growth. Gathering this data and conducting proper analysis of the data will have significant costs. The annual expense for fiscal impact studies can be expected to vary drastically depending upon how many recommended rule changes are presented by each of the state agencies and the complexity of the rules being adopted.

For the Regulation and Licensing Department (RLD), it is anticipated the Construction Industries Division (CID) and the Boards and Commission Division (BCD) of the Department would face the greatest increases to costs associated with administrative rulemaking processes. The CID regularly must engage in administrative rulemaking to update New Mexico building codes in order to stay in line with national code standards. The BCD, which supports twenty-eight (28) separate boards and commissions that are administratively attached to the RLD assists each of those entities with rulemaking processes concerning the professions and industries the boards and commissions license and regulate. As a result of the new requirement imposed by HB 358, it can be expected there will be substantial, recurring costs associated with each rulemaking process. The variances in the annual estimated costs to the RLD (ranging between \$30,000 and \$120,000 per year) are attributable to the fact that some years will involve a large number of rulemaking actions, with fewer in other years. In years where the CID is adopting updating building codes there will be numerous rules amended. HB 358 does not provide any funding for agencies, including the RLD, to pay for those additional operational costs.

## **SIGNIFICANT ISSUES**

HB 358's requirement to perform fiscal impact reports if any proposed administrative rule is anticipated to have a fiscal impact exceeding one million dollars (\$1,000,000), will have a significant fiscal impact on the RLD year after year.

HB 358's requirement for a fiscal impact statement prior to approving rule changes or the adoption of rules has a wide range of possible effects affecting the financial costs and time constraints associated with the rulemaking process depending upon the specific agency and the nature of the proposed rules. Placing additional obstacles and burdens on this process will delay and most likely impede the rulemaking process necessary to conduct board business.

It should also be noted that while the statute only requires a cost analysis and impact report if the impact is expected to exceed one million dollars (\$1,000,000) on page 8 line 14 **The interim administrative rule oversight committee and its staff, at the request of committee members, may request a fiscal impact statement from the agency proposing a rule after receiving the rule even if the fiscal impact of the rule does not exceed one million dollars (\$1,000,000).**

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

The creation of the proposed IAROC to review agency rule proposals duplicates reviews already performed by interim legislative committees. Currently, agencies are required to notify the legislative council of proposed rulemaking pursuant to 14-4-2(E)(7). Agency proposed rules are

to be distributed by the Legislative Council Service to appropriate interim and standing legislative committees. Further, the legislature has the constitutional authority to change the scope of legislative authority delegated to any agency concerning its rulemaking authority.

HB 358 potentially overlaps with 2025 HB 168 - Construction Cost Studies.

## **TECHNICAL ISSUES**

HB 358 does not define how to determine when a one million dollar (\$1,000,000) fiscal impact report is required and how to calculate the costs associated with the fiscal impact. For example, would the scope of the analysis concerning the potential cost of a proposed rule be limited to the anticipated fiscal impact in a single fiscal or calendar year? If the analysis is to look beyond a single year, how many years must be considered? For another example, consider how broadly an agency should account for ancillary impacts of a change made to a rule. A change to a single building code may result in increased materials expenses for a builder, but the purchase of those building materials also means increased revenues to the building material supplier. Should those factors offset one another in the agency's analysis? HB 358 does not provide answers for these questions.

## **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

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

### **AMENDMENTS**