

<b>LFC Requester:</b>	<b>Joseph Simon</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}*

**Bill Number:** 2.14.25 *Check all that apply:*  
HB119 Original  Correction   
 Amendment X Substitute

**Sponsor:** Kathleen Cates **Agency Name and Code:** Retiree Health Care Authority  
**Short Title:** Contract Adjustments Under Procurement Code **Number:** 34300  
**Person Writing:** Mark Hayden **Phone:** 505-377-9012 **Email:** mark.hayden@rhca.nm.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
<b>Total</b>	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Recurring	RHCA Benefits Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: This is a bill to amend the Procurement Code to allow for contract adjustments and require the state to request adjustments in reimbursement rates for health care. This amendment now adds regulatory adjustments and rules in addition to statutes as new exceptions to the New Mexico Procurement Code.

#### **FISCAL IMPLICATIONS**

For Medicare providers, the Centers for Medicare & Medicaid Services (CMS) set reimbursement rates in accordance with established Medicare policies and objectives. These rates are adjusted on a schedule dictated by the Medicare Payment Advisory Commission. The current mechanisms may not accommodate changes or adjustments outside of these regular review cycles. Typically, increases in physician reimbursements occur through adjustments to the Physician Fee Schedule, which do not consider employee compensation or benefits. Furthermore, the New Mexico Retiree Health Care Authority (NMRHCA) must request increases in Medicare reimbursement rates from the federal government; however, there is no requirement for the federal government to approve such requests, as their own processes govern Medicare reimbursement rate determinations.

The process of awarding contracts and evaluating the most advantageous factors could be undermined by the requirement for post-award adjustments. Contractors would have likely included these potential costs in their initial submissions or final proposals had they been known. This could result in costs that contractors would ordinarily bear being shifted to the state, which falls outside the provisions of the procurement code. Additionally, substantial time may be required from all parties involved to amend existing contracts.

Budgeting for contracts and annual expenses is planned in advance, making it challenging to project and allocate proper funding without adequate lead time for adjustments due to new laws.

#### **SIGNIFICANT ISSUES**

The bill refers to "a contract with a state agency" without clearly defining the type of contract, the specific vendors involved, or the services that would be affected. This ambiguity may impair the ability of agencies to budget effectively for adjustment costs, as the bill broadly encompasses compensation and benefits requests. Moreover, the legislation does not obligate the state agencies to comply with these requests, making it difficult to determine when it would apply.

#### **PERFORMANCE IMPLICATIONS**

Should agencies have multiple contracts subject to this bill, the 45-day period allowed for contractors to request adjustments may place additional burdens on them, especially depending on when the law becomes effective. The responsibility for funding these changes, combined with the need for agencies to manage requests from the federal government will lead to additional delays and non-responses from the federal government.

#### **ADMINISTRATIVE IMPLICATIONS**

The legislation necessitates a written response from the state to all contractor requests for contract adjustments. However, it is unclear what specific adjustments regarding employee compensation and benefits are intended. Further clarification is required to assess the full administrative implications.

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

None.

## **TECHNICAL ISSUES**

This legislation permits modifications to existing contracts by circumventing the New Mexico Procurement Code. This could potentially be less than advantageous to the state's procurement process. Moreover, allowing for regulatory adjustments and rules in addition to statutes gives vendors easier ability to request changes throughout the years a contract is in place through this new exception to the procurement code.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

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

Contracts that have been competitively procured through the New Mexico Procurement Code will remain unchanged.

## **AMENDMENTS**

Amendment of this bill provides for regulatory adjustments and rules in addition to statutes.