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FISCAL IMPACT REPORT

SPONSOR	<u>Pettigrew</u>	LAST UPDATED	<u>3/6/25</u>
	Administrative Rule Oversight Committee,	ORIGINAL DATE	<u>3/6/25</u>
SHORT TITLE	<u>CA</u>	BILL NUMBER	<u>House Joint Resolution 19</u>
		ANALYST	<u>Hilla</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS	No fiscal impact	No fiscal impact	\$35.0 to \$50.0	\$35.0 to \$50.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Public Regulation Commission (PRC)
Regulation and Licensing Department (RLD)
Health Care Authority (HCA)

Agency Analysis was Solicited but Not Received From
Department of Homeland Security and Emergency Management (DHSEM)
Energy, Minerals and Natural Resources (EMNRD)
Office of Superintendent of Insurance (OSI)

SUMMARY

Synopsis of House Joint Resolution 19

House Joint Resolution 19 (HJR19) would amend Article IV of the New Mexico Constitution to create the interim Administrative Rule Oversight Committee, comprised of 12 members:

- Three majority floor representatives;
- Three minority floor representatives;
- Three major floor senators;
- Three minority floor senators.

HJR19 requires that the position of chair alternate between the House and the Senate and the two political parties having the most members in both house each year. Members would be appointed for two-year terms and meet no less than once a month in the legislative interim.

HJR19 requires that the committee review rules proposed by an executive agency, analysis of rules conducted by committee staff and discal impact reports conducted by the Legislative Finance Committee associated with the rules at least two weeks prior to the public rule hearing for the rules, except when the Legislature is in session. The joint resolution authorizes the committee to make recommendations on the rules and recommend changes to authorizing statutes of a rule to clarify legislative intent. Should the committee find that the rule does not comply with authorizing law, the committee may recommend to the Legislature to overturn the rule during a legislative session.

The joint resolution provides the amendment be put before the voters at the next general election (November 2026) or a special election called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$35 thousand to \$50 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

Should this proposed constitutional amendment be approved by voters, the Committee’s budget would need to be adopted by the Legislature for its creation in FY28 due to the timing of the constitutional amendment; therefore the recurring cost is out of the scope of this analysis.

SIGNIFICANT ISSUES

The State Rules Act already requires providing the proposed rule to the Legislative Council Service (amendment made in 2017) and addresses the statutory adherence of proposed rules and notice requirements. Nothing in current law prevents legislative committees, or individual legislators, from commenting on proposed executive agency rules. Further, the Small Business Regulatory Relief Act (NMSA 1978, Sections 14-4A-1 to -5) already requires agencies to submit proposed rules that may have an effect on small businesses to the Small Business Regulatory Advisory Commission for review and determination whether such proposed rules are fair, effective, and not overly burdensome.

In New Mexico the rule review process is almost completely in the hands of the agencies promulgating the rules, with provisions in the Administrative Procedures Act for judicial review by the 1st Judicial District Court if a plaintiff claims the rule interferes with or impairs, or threatens to interfere with or impair, their interests, rights, or privileges. Nebraska and California have similar, executive-centered administrative rule review processes.

New Mexico is one of 10 states without legislative review of agency regulation. Generally, legislative reviews of administrative rules are necessary to ensure proper separations of powers, and that legislative intent is maintained when implementing state law – in essence this

government function prevents a conflict between administrative rule and statute. In New Mexico, the only remedy when an executive branch agency's rules exceed the authority granted in state law is by challenging the agency's rule through the judicial process and the courts.

HJR19 may violate the principle of separation of powers incorporated into the New Mexico Constitution. Article III, Section 1 of the New Mexico Constitution states that:

The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this constitution otherwise expressly directed or permitted.

The Public Regulation Commission states that HJR19's requirements for recommendations could significantly impact or delay rulemaking. Agencies indicate rulemaking is done throughout the year and can be needed on an emergency basis. The limited availability of the committee will add additional delay to the already prolonged rule-making process. Section 1(D) requires the interim committee to meet at least once per month, but rulemaking often operates under strict timelines. Requiring agencies to wait for monthly meetings—without assurance that their rule proposals will be heard in a timely manner—creates unnecessary hurdles. Furthermore, HJR19 prevents the committee from meeting during the legislative session, leaving agencies without a clear process for advancing necessary rules while the Legislature is in session. This could delay critical regulatory updates that affect public safety, economic development, and other essential services.

Based on agency analysis from similar legislation (House Bill 358, which seeks to create the same interim committee but through statute as opposed to a constitutional amendment), the State Ethics Commission and Sentencing Commission the use of "executive agency" is not defined in the State Rules Act (which is presumably where these new sections of law would be placed). The State Rules Act does define "agency", as "any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches of the state government." As no definition is provided in HJR19 for "executive agency", it is unclear to which entities these new sections would apply.

ADMINISTRATIVE IMPLICATIONS

Section 1(E)(1) states that the committee will review fiscal impact reports conducted by LFC associated with the rules at least two weeks prior to the public rule hearing for the rules. However, LFC only writes fiscal impact reports for bills proposed during a legislative session. This would add additional administrative work for LFC.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The joint resolution is duplicative of House Bill 358 which seeks to create the same interim committee, but through a statutory change. HJR19 relates to House Bill 510, which amends the State Rules Act and changes how agencies are to address rule changes.