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HOUSE BILL 409

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Randall T. Pettigrew

AN ACT

RELATING TO STATE RULES; PROVIDING FOR LEGISLATIVE REVIEW OF  
RULES ADOPTED BY STATE AGENCIES, BOARDS AND COMMISSIONS;  
REQUIRING AN ECONOMIC IMPACT STUDY BEFORE A RULE IS SUBJECT TO  
A PUBLIC HEARING; AUTHORIZING THE AMENDMENT OR REPEAL OF RULES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 2-3-3 NMSA 1978 (being Laws 1951,  
Chapter 182, Section 3, as amended) is amended to read:

"2-3-3. LEGISLATIVE COUNCIL--POWERS--DUTIES.--It [~~shall~~  
~~be~~] is the duty of the New Mexico legislative council to:

A. [~~to~~] adopt rules [~~and regulations~~] for the  
administration of [~~this act~~] Chapter 2, Article 3 NMSA 1978 in  
the conduct of the affairs of the legislative council service;

B. [~~to~~] formulate policies for the operation and  
conduct of the business of the legislative council service and

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1 generally to supervise all of the activities of [~~such~~] the  
2 council service;

3 C. [~~to~~] carry out the purposes of the legislative  
4 council service as hereafter set forth;

5 D. [~~to~~] create committees of legislators to study  
6 major problems during the periods when the legislature is not  
7 in session; provided that:

8 (1) no member of the council shall serve as an  
9 officer or voting member on an interim committee appointed or  
10 created by the council;

11 (2) all committees created by the council  
12 shall terminate on or before December 1 of the year in which  
13 they are created unless the council subsequently extends the  
14 life of the committee for not more than one month;

15 (3) the minority party shall be represented on  
16 all council-created committees in the proportion the minority  
17 party is represented in each house;

18 (4) the relationship of the size of the house  
19 and senate shall be taken into consideration in determining the  
20 number of members from each house appointed to an interim  
21 committee created by the council; and

22 (5) members shall be appointed to council-  
23 created committees by the same appointing authorities that  
24 appoint the council members from each house and subject to the  
25 same recommendations. The council shall name committee

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1 officers from among the committee members so appointed;

2 E. designate an interim committee to review the  
3 rules pursuant to the provisions of Section 14-4-4.2 NMSA 1978;

4 [~~E. to~~] F. adopt rules of procedure for all  
5 committees created by the council, including a rule that no  
6 action shall be taken by [~~the~~] a committee if a majority of the  
7 total membership from either house on the committee rejects  
8 such action; provided that no member of the legislature shall  
9 ever be excluded from any meeting of any committee appointed by  
10 the council; and

11 [~~F. to~~] G. refrain from advocating or opposing the  
12 introduction or passage of legislation."

13 SECTION 2. A new section of the State Rules Act, Section  
14 14-4-4.1 NMSA 1978, is enacted to read:

15 "14-4-4.1. [NEW MATERIAL] RULEMAKING PREREQUISITES--  
16 ECONOMIC IMPACT STUDY.--Before the publication of a proposed  
17 rule, an agency shall conduct an economic impact study of  
18 costs, benefits and impacts of the proposed rule. The study  
19 shall include:

- 20 A. the need for the proposed rule;
- 21 B. the number and identity of municipalities,  
22 counties, business sectors or other entities that will be  
23 impacted by the proposed rule;
- 24 C. the estimated cost of compliance with the  
25 proposed rule;

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1 D. the anticipated benefit derived from compliance  
2 with the proposed rule; and

3 E. the extent to which the proposed rule overlaps,  
4 duplicates or conflicts with other federal, state and local  
5 government rules."

6 SECTION 3. A new section of the State Rules Act, Section  
7 14-4-4.2 NMSA 1978, is enacted to read:

8 "14-4-4.2. [NEW MATERIAL] LEGISLATIVE REVIEW OF PROPOSED  
9 RULES--EFFECT OF COMMITTEE ACTION.--

10 A. Except as provided in Section 14-4-5.1 NMSA 1978  
11 and Subsection E of this section, no rule shall be valid or  
12 enforceable until the procedures required by this section have  
13 been followed.

14 B. Concurrently with the publication of a proposed  
15 rule and prior to any public hearing otherwise required, the  
16 agency proposing to promulgate a rule shall file the proposed  
17 rule along with an economic impact study with the director of  
18 the legislative council service. Upon receipt of a proposed  
19 rule and economic impact study, the director shall forward a  
20 copy of the rule to each member of:

21 (1) the appropriate interim committee  
22 designated by the New Mexico legislative council to receive  
23 rules proposed by that agency; or

24 (2) the New Mexico legislative council if:

25 (a) the term of the interim committee

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1 members has expired and the council has not yet appointed new  
2 members to the interim committee; or

3 (b) the council has not designated an  
4 interim committee to receive rules proposed by the agency.

5 C. A proposed rule and its economic impact study  
6 shall be reviewed by an interim committee or the New Mexico  
7 legislative council if, within ten days of the filing of the  
8 rule with the director of the legislative council service, a  
9 legislator receiving the economic impact study and the proposed  
10 rule pursuant to Subsection B of this section makes a written  
11 request for legislative review of the proposed rule to the  
12 director and the agency proposing the rule.

13 D. Any proposed rule that has received a written  
14 request for legislative review pursuant to Subsection C of this  
15 section is subject to review by the legislature at the next  
16 regular session.

17 E. By the thirteenth day of any regular session of  
18 the legislature held in an odd-numbered year and by the  
19 fifteenth day of any regular session held in an even-numbered  
20 year, the standing committee to which a proposed rule and its  
21 accompanying economic impact study have been referred may  
22 report to the membership of the body its findings and  
23 recommendations concerning its review of the proposed rule.  
24 The report of the committee shall be printed in the journal.  
25 If the committee does not report by the day specified, such

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1 failure to report shall constitute legislative approval of the  
2 proposed rule. If the committee to which a proposed rule has  
3 been referred is of the opinion that the proposed rule is  
4 violative of the legislative intent of the statutory authority  
5 under which the rule is made, the committee may introduce along  
6 with its report a concurrent resolution amending or rejecting  
7 the proposed rule accordingly. If the concurrent resolution is  
8 adopted by the legislature, the rule shall be amended, approved  
9 or rejected accordingly.

10 F. A rule may be filed and published pursuant to  
11 Section 14-4-5 NMSA 1978 and subsequently be valid and  
12 enforceable if:

13 (1) a timely request for legislative review is  
14 not made pursuant to Subsection C of this section;

15 (2) a standing committee does not make a  
16 timely report on the proposed rule pursuant to Subsection E of  
17 this section; or

18 (3) a resolution is enacted by the legislature  
19 approving or amending the rule.

20 G. An emergency rule may take effect without a  
21 prior filing pursuant to Subsection B of this section but shall  
22 be in effect no longer than sixty days unless a filing is made  
23 pursuant to that subsection. Upon the filing, the emergency  
24 rule may remain in effect but shall otherwise be subject to the  
25 request for the legislative review provisions of this section."

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SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.