

LFC Requester:	Leger, Jeannae
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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}

Date Prepared: 2/12/25 *Check all that apply:*
Bill Number: HB 358 Original Correction
 Amendment Substitute

Sponsor: Representative Pettigrew **Agency Name and Code** 366-PERA
Short Title: INTERIM ADMIN. RULES OVERSIGHT COMMITTEE **Number:** _____
Person Writing Anna Williams
Phone: 505-259-8489 **Email** Annae.williams@pera.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
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 358 creates a new sections of the New Mexico statutes governing the members of the legislature to create an interim administrative rule oversight committee. The interim committee would consist of 12 members serving two year terms; 3 members appointed by majority floor leader of the house of representative, 3 members appointed by minority floor leader of the house of representative, 3 members appointed by majority floor leader of the senate, 3 members appointed by minority floor leader of the senate. The proposed legislation requires the interim committee to meet, at least, monthly and requires that the position of chair alternate between the house and senate and the two political parties having the most members in both houses each year.

The bill empowers the newly created t committee to review proposed executive agency rules, along with committee staff analysis and related fiscal impacts and to make recommendations on the proposed rule changes. The committee may also recommend changes or endorse legislation amending or repealing the statute authorizing the rulemaking. The bill also creates no more than four new positions in the legislative council services, who will be responsible for preparing a written analysis considering the matters itemized in the legislation. The bill amends the State Rules Act to require that an estimate of cost or fiscal impact report be completed by the agency if requested by the committee or if implementing its proposed rule is estimated to be greater than one million dollars. If a fiscal impact report is required it must address the matters itemized in the proposed legislation. The bill also provides appropriation from the general fund of two million dollars.

FISCAL IMPLICATIONS

HB 358 should not have an impact to PERA's operating budget.

SIGNIFICANT ISSUES

Allowing a legislative body to provide input and analysis on proposed rules may lengthen the rulemaking process, but could potentially make rules more difficult to challenge legally, by providing legislative analysis that could arguably be seen as the Legislature agreeing that the intent of the Legislature is met. Procedures relating to the legislative review of rulemaking have undergone numerous changes throughout the United States over the past century, particularly in Congress, and whether further review, and in some instances the ability to overturn rules, has any effect on the number of rules passed or the length of time for rulemaking is a subject of academic debate. The additional procedures required by the proposed legislation seem somewhat minimal, however, there are a few concerns.

First, the ability of the legislative committee to consider agency compliance with the State Rules Act is arguably a judicial function of government and determining whether the law is followed

seems outside of the traditional practice and function of the Legislature.

Second, the Legislature has the inherent, constitutional authority to review statutes relating to existing and proposed rules and could act to repeal or amend those sections during the legislative sessions. The Legislative Council Service already receives all notices of proposed rulemaking, legislators have access to that information, and individual legislators, other legislative interim committees, or any other member of the public could provide comments on a proposed rulemaking through the notice and comment period. The access of information and the current power of the Legislature to impact rulemaking through enacting or amending relevant statutes may raise questions regarding the necessity for further legislative review.

Third, as the body that enacts the laws that statutorily authorizes rulemaking, the Legislature is composed of political bodies that comprise majorities and minorities of political party representation. The legislative committee is proposed to be an equally divided entity that does not reflect the composition of the legislature, which brings into question whether this body could speak on behalf of the Legislature in relation to legislative intent.

Finally, the reason for the existence of rulemaking is the Legislature's acknowledgment that subject matter experts, who are more familiar with the complexities of their specific administrative functions, are better equipped to account for ambiguities or procedures relating to the administration of certain laws. It seems likely that the Legislature would need to hire more than four members of staff to overcome this, or the legislative committee will need to rely on the existing executive agency staff to assist in advising the committee, which could undermine the concept of an independent analysis, free from agency influence. If the legislative committee relies on agency staff for assistance with rule analysis, it is predictable that the committee will always come to the same conclusion as the agency.

PERFORMANCE IMPLICATIONS

HB 358 will not affect PERA's performance measures.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES..

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA would continue to follow the existing statutes in NMSA 1978 and the New Mexico Constitution.

AMENDMENTS

None.