

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: 2/12/2025

Bill Number: HB 358

Sponsor: Pettigrew

Short Title: Interim Admin Rules Oversight Cmte

Agency Name and Code Number: NM Indian Affairs Dept 60900

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Section II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$2,000	Nonrecurring	State General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	Na	na

(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	\$0	\$0	\$0	\$0	Na	na

Jeannae Leger, Analyst

(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: This bill creates an Interim Administrative Rule Oversight Committee which gives authority to the legislature to review and scrutinize executive agency proposed rules.

The committee will consist of 12 members (three from each legislative leadership group), with two-year terms and meetings at least monthly during legislative interim periods. The committee's key duties include reviewing proposed rules two weeks before public hearings, making recommendations to executive agencies, potentially recommending statutory changes, and conducting detailed analyses of proposed rules. These analyses will examine the rule's alignment with authorizing statutes, necessity, fiscal impacts, legal implications, and compliance with notice requirements.

The bill also amends the State Rules Act to require agencies to include a fiscal impact statement for proposed rules estimated to cost over \$1 million, with the new committee able to request fiscal impact statements even for rules below that threshold. The legislative council service will hire up to four staff members to support the committee, and the bill includes a \$2 million appropriation to establish and operate the committee in fiscal year 2026, with the provisions becoming effective on July 1, 2025.

FISCAL IMPLICATIONS

This bill includes an appropriation of \$2,000,000.00 from the state general fund to the legislative council service. However, the bill will likely cause an adverse administrative fiscal impact on IAD if and when IAD engages in rulemaking.

SIGNIFICANT ISSUES

The bill appears to assume that executive agencies fail to consider the necessity, fiscal impacts, legal implications, and/or notice compliance when drafting and proposing rules. In what appears to be an effort to upend the executive's ability to make rules, this bill will create delays and impede upon the rule approval process, particularly if the committee requests amendments or modifications to proposed rules or recommends statutory changes.

If the agency disagrees with the committee's recommendation, the rule could face further delays and uncertainty. Currently, the agency ensures adequate timing, transparency, and accountability for constituents and tribal leadership. In the event that rulemaking becomes prolonged or drawn out, the rule may become obsolete or overtaken by new legislative priorities before it is promulgated. Such uncertainty could result in adverse impacts to rules tied to federal deadlines.

Jeannae Leger, Analyst

Moreover, this bill directly conflicts with the enabling statutes of those executive agencies which have explicit language granting them the authority to adopt rules. IAD's enabling statute sets forth how its secretary may make and adopt rules. The bill also authorizes the committee to endorse legislation to repeal such enabling statutes, thereby, in effect, removing rulemaking authority from the executive branch.

The bill raises constitutional concerns by allowing legislative involvement in the executive branch's rulemaking process. Additionally, mandating legislative oversight of administrative rules effectively transfers legal review from the courts in favor of lawmakers. As such, the bill may conflict with the separation of powers established in Article III, Section 1 of the New Mexico Constitution.

Finally, the bill adds requirements that apply to executive agencies, but it is unclear whether the imposition also applies to statutorily created boards and commissions which are administratively attached to executive agencies.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

If passed, this bill will likely require IAD, and other state agencies, to secure additional resources, both human and fiscal, to meet the demands of the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS