

LFC Requester:

Jeannae Leger

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) 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 *Check all that apply:*
Bill Number: HB358 Original Correction
 Amendment Substitute

Sponsor: Randall T. Pettigrew **Agency Name and Code Number:** ECECD 611
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI		

(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:

HB358 proposes to create an Interim Administrative Rule Oversight Committee (“Committee”), requires legislative review of executive agency proposed rules, and amends the State Rules Act to include a fiscal impact statement if the estimated cost of implementing a proposed rule is greater than \$1,000,000.00, or upon request. HB358 also makes an appropriation of two million dollars for costs associated with the implementation of the Committee.

The Interim Administrative Rule Oversight Committee proposed by HB358 would be comprised of twelve appointed members, appointed by the majority floor leader of the house of representatives, the minority floor leader of the house of representatives, the majority floor leader of the senate, and the minority floor leader of the senate. Members would be appointed for two year terms, and the committee would be required to meet at least once per month during the interim.

The Interim Administrative Rule Oversight Committee proposed by HB358 would be tasked with reviewing rules proposed by an executive agency and analyzing the proposed rules’ fiscal impact two weeks prior to the public rule hearing for the proposed rules, except when the legislature is in session. The Committee would also be required to make recommendation on the rules to the proposing agency, recommend changes to the authorizing statutes of a rule to clarify legislative intent, and may endorse legislation as is necessary to amend or repeal a statute authorizing an agency to promulgate rules.

HB358 also requires the agency to estimate the cost of implementing the proposed rule, including a fiscal impact statement if the proposed rule is estimated to be greater than one million dollars, or upon request, which includes:

- The fiscal impact of the proposed rule on other agencies, municipalities, counties, business sectors and other entities that will be impacted by the proposed rule;
 - The necessity of the rule,
 - A statement of whether and how the rule is consistent with the legislative intent of the authorizing statute;
 - Whether the rule amounts to a mandate on counties and municipalities and, if so, whether that mandate is funded or unfunded; and
 - Whether the rule is necessary to comply with a federal mandate.
- HB358 also appropriates two million dollars for expenditure in FY26 for costs incidental to establishing the committee. Unspent funds shall revert to the general fund.

FISCAL IMPLICATIONS

HB358 has no fiscal impact to ECECD.

SIGNIFICANT ISSUES

HB358 proposes measures that do not address any articulatable issue in the current procedure for promulgating administrative rules. The State Rules Act, NMSA 1978 Sections 14-4-1 to -11, and NMAC 1.24.25, the Default Procedural Rule for Rulemaking, already set forth detailed vetting processes for rule promulgation.

Additionally, the duties assigned to the Committee proposed by HB358 present significant issues of separation of powers within New Mexican government. As drafted, the duties assigned to the Committee constitute legislative overreach into an administrative agencies' ability to promulgate rules to carry forth the duties assigned to it by the agency's authorizing statute.

Additionally, HB358 would require that a legislative body (the Committee) interpret authorizing statutes of agencies proposing rules to "clarify legislative intent." It is the duty of the judicial branch of government to rule on issues of statutory interpretation. Additionally, requiring an interim committee to "clarify" statutory intent when the committee is not comprised of the legislators who passed the bill containing the authorizing statute in question would lend little credibility to the Committee's interpretation of legislative intent.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

HB358 would add additional requirements to the administrative rules promulgation procedure, which would significantly burden ECECD's ability to promulgate administrative rules in a timely manner. Given the arduous nature of current promulgation procedure for administrative rules, the additional requirements imposed by HB358 create an excessive administrative burden on ECECD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS