

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 2025-02-12
Bill No: HB358

Sponsor(s) Randall T. Pettigrew
:

Agency Name CYFD 69000
and Code
Number:

Person Writing Justin Boyd
Analysis:

Short INTERIM ADMIN. RULES
Title: OVERSIGHT COMMITTEE

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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB 358 adds new sections to the NMSA 1978 which establishes the Interim Administrative Rule Oversight Committee.

Committee Formation and Structure:

The Interim Administrative Rule Oversight Committee is composed of 12 members appointed equally by the majority and minority floor leaders of both the House and Senate. Leadership alternates annually between the two legislative chambers and the two major political parties, ensuring bipartisan representation. Members serve two-year terms, expiring at the start of each odd-numbered year's regular legislative session, with vacancies filled by the original appointing authority. The committee must meet at least once per month during the interim period between legislative sessions.

Duties and Powers

The committee reviews proposed administrative rules from executive agencies, including staff analyses and fiscal impact reports, at least two weeks before public hearings (except during legislative sessions).

The committee then provides recommendations on proposed rules and may suggest legislative amendments to clarify statutory intent. The committee has the authority to endorse legislation to amend or repeal statutes related to rulemaking.

Staffing and Support

The Legislative Council Service is responsible for hiring up to four staff members to support the committee's operations.

Rule Review Procedures

Upon receiving a notice of proposed rulemaking, the Legislative Council Service distributes it to the committee and staff. The staff then prepares a written analysis of the rule, evaluating:

1. Alignment with its authorizing statute
2. Necessity of the rule

3. Fiscal impact on stakeholders
4. Legal implications
5. Compliance with notice requirements under the State Rules Act.

The committee may request a fiscal impact statement from the proposing agency, even if the financial impact is below \$1 million. Committee members receive the analysis at least 10 days before a meeting to review the rule. After deliberation, the committee submits written recommendations to the proposing agency, the New Mexico Department of Justice, and the Governor during the public comment period. Emergency rules are exempt from this review process under HB 358.

HB 358 also amends Section 14-4-5.2 NMSA 1978 by adding a requirement that an agency proposing a rule must include an estimate of the cost of implementing the proposed rule if the cost is estimated to be greater than one million dollars.

HB 358 further mandates that a fiscal impact statement as required under Section 14-4-5.2 NMSA 1978 must assess:

1. The financial impacts on agencies, municipalities, counties, businesses, and other affected entities.
2. The necessity of the rule.
3. Whether the rule aligns with legislative intent.
4. If the rule imposes a mandate on local governments, and whether that mandate is funded or unfunded.
5. Whether the rule is required to comply with a federal mandate.

Appropriation & Implementation

\$2 million is appropriated from the general fund to the Legislative Council Service for staffing and operational costs related to the committee for FY 2026. Any unused funds at the end of FY 2026 will revert to the general fund. The act takes effect on July 1, 2025.

FISCAL IMPLICATIONS

If the federal government were to require CYFD to make a change to practices or processes as identified in a rule, and CYFD is unable to comply with its timeline, the federal government could freeze, restrict, or reduce its CYFD funding. This entirely foreseeable scenario would have a devastating impact upon CYFD's ability to serve the families and children of New Mexico.

SIGNIFICANT ISSUES

Timeliness of review - This legislation would significantly delay the promulgation process based on legislative session and/or legislative committee review time.

Currently rules can (and must) be promulgated at any point during the year—not just during legislative session interims.

This bill erodes the power and authority of Cabinet Secretaries to promulgate Rules within their purview and potentially conflicts with NMSA 9-2A-7.

Potential differences of opinion between legislators and agency leadership would set up a conflict regarding legislative intervention and executive authority and responsibility for the rulemaking process. This could potentially violate the separation of powers as written in the State Constitution.

PERFORMANCE IMPLICATIONS

If CYFD were proposing rule changes to amend its processes to align with best practices in child welfare, the delay associated with the committee review could restrict or reduce programming access and availability for system-involved families.

ADMINISTRATIVE IMPLICATIONS

The additional burdens placed upon the administrative process for enacting new rules would belabor CYFD's ability to promulgate rules.

Prior to any rule promulgation, agencies are already required to hold a public comment period. This comment period is open to anyone, including legislators.

Agencies are already required to submit budget requests to the LFC. Those budget requests include fiscal analysis of any new or proposed program changes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.