

LFC Requester:	Jeannae Leger
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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: 02/12/2025 *Check all that apply:*
Bill Number: HB 358 Original Correction
 Amendment Substitute

Sponsor:	<u>Randall T. Pettigrew</u>	Agency Name and Code	<u>790 – Department of Public Safety</u>
Short Title:	<u>Interim Administr Rules Oversight Committee</u>	Person Writing	<u>Louise Riebe</u>
		Phone: <u>505-827- _____</u>	Email: <u>Louise.Riebe@dps.nm.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0.0	\$2,000.0	Nonrecurring	General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	N/A	N/A

(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	\$0.0	\$0.0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2024 HB124.
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Sets up the interim Administrative Rule Oversight Committee (AROC) to review executive agency rules and make recommendations to the proposing agency, and changes to the authorizing statutes.

AROC consists of 12 members, 6 from each house, 3 appointed by the majority floor leader and 3 by the minority floor leader. Position of chair alternates annually between chambers. Provides for removal of members and filling of vacancies. Requires committee to meet at least once monthly during the interim.

AORC's duties:

- Review executive agency rules, committee staff analyses of those rules and fiscal impacts associated with the rules two weeks prior to the rule's public hearing.
- Make recommendations on the rules to the proposing agency.
- Recommend changes to authorizing statutes of a rule to clarify legislative intent.
- Direct committee staff.
- AORC may also endorse legislation to amend or repeal a statute authorizing an agency to promulgate rules.

Sets out procedures for conducting rule reviews, including legal implications on existing state and federal laws and the proposing agency's compliance with State Rules Act notice requirements. Limits staff to no more than four.

Amends NMSA 1978, Section 14-4-5.2 (Notice of Proposed Rulemaking) to mandate preparation of an estimate of the cost of implementing the proposed rule. If the cost is estimated to exceed \$1 million, requires a fiscal impact statement. A new section clarifies that the statement covers fiscal impact on other agencies, municipalities, counties, business sectors and other impacted entities; the rule's necessity; a statement on whether and how the rule is consistent with legislative intent of the authorizing statute; whether the rule is a funded or unfunded mandate on counties and municipalities; and whether the rule is necessary to comply with a federal mandate. AROC may request a fiscal impact statement even if the estimated cost is under \$1 million.

Appropriates \$2 million (GF, reverting) to Council Service for expenditure in FY2026 to staff AROC and other incidental costs to establishing the committee.

Effective date is July 1, 2025.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

HB 358 raises significant concerns regarding the separation of powers, efficiency of governance, and the ability of state agencies to fulfill their statutory responsibilities.

The bill grants an interim legislative committee oversight over agency rulemaking, which encroaches on executive authority. Agencies are charged with implementing laws and developing rules within their expertise; yet HB 358 subjects this process to additional legislative review outside of regular session. This undermines the independence of the executive branch and disrupts the balance of power between the legislative and executive branches. The principle of separation of powers is fundamental to ensuring that government functions efficiently and fairly while preventing any one branch from overstepping its constitutional role.

Section 1(D) requires the Interim Committee to meet at least once per month, but rulemaking often operates under strict timelines. Requiring agencies to wait for monthly meetings—without assurance that their rule proposals will be heard in a timely manner—creates unnecessary hurdles. Furthermore, Section 2(A)(1) prevents the Committee from meeting during the legislative session, leaving agencies without a clear process for advancing necessary rules while the Legislature is in session. This could delay critical regulatory updates that affect public safety, economic development, and other essential services.

While the Committee includes members from both major political parties, legislative priorities may not always align with agency mandates. Agencies are required to implement laws as written, but this additional legislative oversight—particularly in cases where agency responsibilities are underfunded—could create conflicts that hinder agencies’ ability to meet their obligations.

HB 358 does not outline a mechanism for agencies to challenge Committee decisions. Without a clear process for appeals or dispute resolution, agencies may be forced to comply with Committee directives that conflict with statutory requirements or operational needs. A transparent, formal process is necessary to prevent arbitrary decision-making and ensure agencies have a way to seek reconsideration.

For these reasons, DPS does not support this bill. It imposes legislative control over executive functions, introduces inefficiencies that could hinder agency operations, and lacks critical safeguards to ensure fair and effective governance.

PERFORMANCE IMPLICATIONS

None identified by DPS.

ADMINISTRATIVE IMPLICATIONS

None identified by DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

2024 HB124 “Interim Administrative Rule Oversight Committee.”

TECHNICAL ISSUES

None to DPS.

OTHER SUBSTANTIVE ISSUES

None identified by DPS.

ALTERNATIVES

None proposed by DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

None proposed by DPS.