

HOUSE BILL 124

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO LEGISLATIVE AFFAIRS; CREATING THE INTERIM ADMINISTRATIVE RULE OVERSIGHT COMMITTEE; REQUIRING LEGISLATIVE REVIEW OF EXECUTIVE AGENCY PROPOSED RULES; AMENDING THE STATE RULES ACT'S NOTICE OF PROPOSED RULEMAKING TO INCLUDE A FISCAL IMPACT STATEMENT IF THE ESTIMATED COST OF IMPLEMENTING A PROPOSED RULE IS GREATER THAN ONE MILLION DOLLARS (\$1,000,000); MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 2 NMSA 1978 is enacted to read:

"NEW MATERIAL] INTERIM ADMINISTRATIVE RULE OVERSIGHT COMMITTEE--CREATED--APPOINTMENT.--

A. The "interim administrative rule oversight committee" is created. The committee consists of twelve

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1 members who shall be appointed as follows:

2 (1) three members shall be appointed by the  
3 majority floor leader of the house of representatives;

4 (2) three members shall be appointed by the  
5 minority floor leader of the house of representatives;

6 (3) three members shall be appointed by the  
7 majority floor leader of the senate; and

8 (4) three members shall be appointed by the  
9 minority floor leader of the senate.

10 B. The position of chair shall alternate between  
11 the house and the senate and the two political parties having  
12 the most members in both houses each year; provided that at no  
13 time shall the political parties having the most members in  
14 both houses not be represented as either a chair or a vice  
15 chair.

16 C. Members shall be appointed for two-year terms  
17 that shall expire on the first day of each odd-numbered year  
18 regular session. The term of a member shall terminate when the  
19 member ceases to be a member of the legislature. A member may  
20 be removed at any time by the member's appointing authority.  
21 Vacancies on the committee shall be filled for the unexpired  
22 term by the respective appointing authority that makes the  
23 original appointments.

24 D. The committee shall meet no less than one time  
25 per month during the interim."

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1           SECTION 2. A new section of Chapter 2 NMSA 1978 is  
2 enacted to read:

3           "[NEW MATERIAL] INTERIM ADMINISTRATIVE RULE OVERSIGHT  
4 COMMITTEE--DUTIES--POWERS.--

5           A. The interim administrative rule oversight  
6 committee shall:

7                   (1) review rules proposed by an executive  
8 agency, committee staff analysis of the rules and fiscal  
9 impacts associated with the rules two weeks prior to the public  
10 rule hearing for the rules, except when the legislature is in  
11 session;

12                   (2) make recommendations on the rules to the  
13 proposing executive agency;

14                   (3) recommend changes to the authorizing  
15 statutes of a rule to clarify legislative intent; and

16                   (4) direct the work of committee staff.

17           B. The interim administrative rule oversight  
18 committee may endorse legislation as is necessary to amend or  
19 repeal a statute authorizing an agency to promulgate rules."

20           SECTION 3. A new section of Chapter 2 NMSA 1978 is  
21 enacted to read:

22           "[NEW MATERIAL] INTERIM ADMINISTRATIVE RULE OVERSIGHT  
23 COMMITTEE--STAFF.--The legislative council service shall hire  
24 no more than four staff members for the interim administrative  
25 rule oversight committee."

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1           SECTION 4. A new section of Chapter 2 NMSA 1978 is  
2 enacted to read:

3           "[NEW MATERIAL] INTERIM ADMINISTRATIVE RULE OVERSIGHT  
4 COMMITTEE--RULE REVIEW PROCEDURES.--

5           A. The legislative council service shall distribute  
6 a notice of proposed rulemaking received by an executive agency  
7 pursuant to Section 14-4-5.2 NMSA 1978 to the staff and members  
8 of the interim administrative rule oversight committee when a  
9 notice is received. Staff of the interim administrative rule  
10 oversight committee shall develop a written analysis of the  
11 proposed rule that shall consider:

12                   (1) the proposed rule in relation to the scope  
13 of the authorizing statute;

14                   (2) the necessity of the proposed rule;

15                   (3) the fiscal impact of the proposed rule on  
16 state agencies, political subdivisions, regulated persons,  
17 businesses and all other foreseeable stakeholders if a fiscal  
18 impact statement is required pursuant to Section 14-4-5.2 NMSA  
19 1978 or otherwise requested by the committee pursuant to  
20 Subsection B of this section;

21                   (4) legal implications of the proposed rule on  
22 existing federal and state laws; and

23                   (5) the proposing agency's compliance with  
24 notice requirements provided pursuant to the State Rules Act.

25           B. The interim administrative rule oversight

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1 committee and its staff at the request of committee members may  
2 request a fiscal impact statement from the agency proposing a  
3 rule after receiving the rule even if the fiscal impact of the  
4 rule does not exceed one million dollars (\$1,000,000).

5 C. The staff of the interim administrative rule  
6 oversight committee shall provide to committee members the  
7 written analysis and the corresponding rule at least ten days  
8 prior to the committee meeting at which the proposed rule will  
9 be reviewed.

10 D. The interim administrative rule oversight  
11 committee shall review the proposed rule and approve  
12 recommendations to be provided to the proposing agency.  
13 Following a meeting at which the proposed rule is reviewed,  
14 committee staff shall submit the committee's approved  
15 recommendations in writing to the proposing agency during the  
16 public comment period for the proposed rule as provided  
17 pursuant to the State Rules Act. These written recommendations  
18 shall also be submitted to the office of the attorney general  
19 and the governor.

20 E. The requirements of this section shall not apply  
21 to emergency rules, as provided pursuant to the State Rules  
22 Act."

23 SECTION 5. Section 14-4-5.2 NMSA 1978 (being Laws 2017,  
24 Chapter 137, Section 4) is amended to read:

25 "14-4-5.2. NOTICE OF PROPOSED RULEMAKING.--

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1           A. Not later than thirty days before a public rule  
2 hearing, the agency proposing the rule shall provide to the  
3 public and publish in the New Mexico register a notice of  
4 proposed rulemaking. The notice shall include:

5                   (1) a summary of the full text of the proposed  
6 rule;

7                   (2) a short explanation of the purpose of the  
8 proposed rule;

9                   (3) an estimate of the cost of implementing  
10 the proposed rule; provided that the agency shall include a  
11 fiscal impact statement pursuant to Section 14-4-5.9 NMSA 1978  
12 if the cost of implementing the proposed rule is estimated to  
13 be greater than one million dollars (\$1,000,000);

14                   ~~(3)~~ (4) a citation to the specific legal  
15 authority authorizing the proposed rule and the adoption of the  
16 rule;

17                   ~~(4)~~ (5) information on how a copy of the  
18 full text of the proposed rule may be obtained;

19                   ~~(5)~~ (6) information on how a person may  
20 comment on the proposed rule, where comments will be received  
21 and when comments are due;

22                   ~~(6)~~ (7) information on where and when a  
23 public rule hearing will be held and how a person may  
24 participate in the hearing; and

25                   ~~(7)~~ (8) a citation to technical information,

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1 if any, that served as a basis for the proposed rule, and  
2 information on how the full text of the technical information  
3 may be obtained.

4 B. An agency may charge a reasonable fee for  
5 providing any records in nonelectronic form when provided to a  
6 person pursuant to this section. An agency shall not charge a  
7 fee for providing any records in electronic form when provided  
8 to a person pursuant to this section.

9 C. An internet link providing free access to the  
10 full text of the proposed rule shall be included on the notice  
11 of proposed rulemaking.

12 D. If the agency changes the date of the public  
13 rule hearing or the deadline for submitting comments as stated  
14 in the notice, the agency shall provide notice to the public of  
15 the change.

16 E. The state records administrator or the  
17 administrator's designee shall timely publish the notice of  
18 proposed rulemaking in the next publication of the New Mexico  
19 register."

20 SECTION 6. A new section of the State Rules Act, Section  
21 14-4-5.9 NMSA 1978, is enacted to read:

22 "14-4-5.9. [NEW MATERIAL] FISCAL IMPACT STATEMENT--  
23 REQUIREMENTS.--

24 A. A fiscal impact statement required pursuant to  
25 Paragraph (3) of Subsection A of Section 14-4-5.2 NMSA 1978

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1 shall include:

2 (1) the fiscal impact of the proposed rule on  
3 other agencies, municipalities, counties, business sectors and  
4 other entities that will be impacted by the proposed rule;

5 (2) the necessity of the rule;

6 (3) a statement of whether and how the rule is  
7 consistent with the legislative intent of the authorizing  
8 statute;

9 (4) whether the rule amounts to a mandate on  
10 counties and municipalities and, if so, whether that mandate is  
11 funded or unfunded; and

12 (5) whether the rule is necessary to comply  
13 with a federal mandate.

14 B. The interim administrative rule oversight  
15 committee and its staff at the request of committee members may  
16 request a fiscal impact statement from the agency proposing a  
17 rule after receiving the rule even if the fiscal impact of the  
18 rule does not exceed one million dollars (\$1,000,000) pursuant  
19 to Section 4 of this 2024 act."

20 SECTION 7. APPROPRIATION.--Two million dollars  
21 (\$2,000,000) is appropriated from the general fund to the  
22 legislative council service for expenditure in fiscal year 2025  
23 to staff the interim administrative rule oversight committee  
24 and for other costs incidental to establishing the committee.  
25 Any unexpended or unencumbered balance remaining at the end of

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fiscal year 2025 shall revert to the general fund.

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