

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>McQueen/Scott/Duhigg/Moores</u>	<b>LAST UPDATED</b>	<u>3/7/23</u>
	<u>Publication of Amendment &amp; Agency</u>	<b>ORIGINAL DATE</b>	<u>3/1/23</u>
<b>SHORT TITLE</b>	<u>Analysis</u>	<b>BILL NUMBER</b>	<u>House Concurrent Resolution 1</u>
		<b>ANALYST</b>	<u>Leger/Gaussoin</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
			\$50.0 - \$150.0	\$50.0 - \$150.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

LFC Survey of State Agencies

## SUMMARY

### Synopsis of House Concurrent Resolution 1

House Concurrent Resolution 1 amends the joint rules of the House and Senate regarding availability of proposed committee amendments and substitutes and executive agency analyses.

The joint rule would be effective the second session of the Fifty-Sixth Legislature (2024 legislative session).

## FISCAL IMPLICATIONS

There is an estimated cost of \$50 thousand to \$150 thousand to build a tool and provide staff for the proposed changes in HCR1. Legislative IT staff report the existing website likely has enough capacity to handle the additional documents, although it is unclear how many years of analysis can be stored.

LFC would need to develop a tool to collect, file, and post executive agency analysis.

There is no appropriation to carry out this mandate. Legislative staff would have eight months to plan, execute, and test a system.

## SIGNIFICANT ISSUES

A fiscal impact report (FIR) includes the official compilation of agency analysis. Agency analysis includes the courts, executive agencies, schools, and quasi agencies. HCR1 only addresses the analysis provided by executive agencies.

HCR1 requires amendments, substitute legislation, and agency analysis be made available to the public through the legislative website. Many “good government” advocates argue transparency is a fundamental component of democracy. Providing those documents online would improve transparency.

However, a limited, informal survey of state agencies—in which 58 individual agencies responded, including almost all the state’s largest agencies—found three agencies already post their agency FIRs online: the New Mexico Attorney General<sup>1</sup>, the Public Education Department<sup>2</sup>, and the Taxation and Revenue Department. Two other agencies said they were planning to start posting soon.

Although not asked if they release agency FIRs to the public on request, 18 volunteered that they do. Five of those that do not already post their analysis online said, again unsolicited, they are “unopposed” to posting their agency analysis on the legislative website.

Three agencies said or suggested posting agency FIRs alongside LFC FIRs would duplicate information already available, including one that said filtering agency analysis through the LFC FIR allows the agency to avoid the appearance of bias.

Reflecting concerns posting agency analysis could “chill” agency response, one survey respondent said the agency opposes posting agency analysis on the legislative website and believes it will result in less useful analysis. However, another said it could improve agency responsiveness to LFC requests for bill analysis and improve the quality of the FIRs if agencies know they are being posted. One agency said they do not consider them public documents.

Notably, if agencies balk at posting their analysis on the legislative website, they could respond by either submitting unresponsive analysis or no analysis at all. If agencies become unresponsive, online publication of agency analysis could have the unintended result of impeding legislative staff efforts to provide accurate and fair analysis of legislation.

If published online, it will be important for the public to be able to interpret the documents and understand draft substitute bills and amendments are not part of the official action of the Legislature and agency analysis is different from the formal analysis provided by LFC staff. Given the varying numbers of amendments and substitutes by bill, with agencies sometimes submitting multiple analyses as a bill is transformed by the legislative process, it is important to ensure the public is able to decipher the documents and differentiate among the types.

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<sup>1</sup> <https://www.nmag.gov/about-the-office/civil-affairs/legislative-affairs>

<sup>2</sup> <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/legislative-services/>

## PERFORMANCE IMPLICATIONS

HCR1 may limit the information provided by executive agencies. In that way, it could affect the quality of FIRs.

## POSSIBLE QUESTIONS

How many years would agency analysis need to be available?

If the intent is to provide public access to all agency analysis, does HCR1 exclude analysis from elected officials or judicial agencies?

JL/HG/al/ne