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HOUSE MEMORIAL 43

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

INTRODUCED BY

Randall T. Pettigrew and James G. Townsend

A MEMORIAL

REQUESTING THAT THE NEW MEXICO LEGISLATIVE COUNCIL CREATE AN
INTERIM COMMITTEE TO REVIEW STATE AGENCY RULES.

WHEREAS, state agencies have no inherent rulemaking power;
and

WHEREAS, state agencies receive rulemaking ability from
statutes enacted by the legislature that authorize the
promulgation of rules; and

WHEREAS, sometimes rules promulgated by state agencies
pursuant to authorizing statutes do not reflect the intent of
the legislature; and

WHEREAS, the process of challenging a state agency rule in
court is costly in time and money; and

WHEREAS, the legislature and the public are put on notice
of proposed rules pursuant to the State Rules Act; and

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1 WHEREAS, the legislature should consider efficient
2 strategies to review proposed rules to determine if those rules
3 align with legislative intent;

4 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
5 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico
6 legislative council be requested to create an interim
7 administrative rule oversight committee consisting of twelve
8 members, with the majority and minority floor leaders of the
9 house of representatives and the majority and minority floor
10 leaders of the senate each appointing three members; and

11 BE IT FURTHER RESOLVED that the position of chair
12 alternate between the house and the senate and the two
13 political parties having the most members in both houses each
14 year; provided that at no time should the political parties
15 having the most members in both houses not be represented as
16 either a chair or a vice chair; and

17 BE IT FURTHER RESOLVED that the interim administrative
18 rule oversight committee meet no less than one time per month
19 during the interim; and

20 BE IT FURTHER RESOLVED that, during the interim, the
21 interim administrative rule oversight committee be requested to
22 review rules proposed by an executive agency, committee staff
23 analyses of the rules and fiscal impacts associated with the
24 rules two weeks prior to the public rule hearing for the rules,
25 except when the legislature is in session, wherein it should

.227206.3

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1 make recommendations on the rules to the proposing executive
2 agency, recommend changes to the authorizing statutes of a rule
3 to clarify legislative intent or endorse legislation as is
4 necessary to amend or repeal a statute authorizing an agency to
5 promulgate rules; and

6 BE IT FURTHER RESOLVED that the legislative council
7 service distribute a notice of proposed rulemaking to the staff
8 and members of the interim administrative rule oversight
9 committee when a notice is received; and

10 BE IT FURTHER RESOLVED that staff of the interim
11 administrative rule oversight committee develop a written
12 analysis of a proposed rule that considers, among many factors,
13 the fiscal impact of the proposed rule and whether the rule
14 reflects legislative intent; and

15 BE IT FURTHER RESOLVED that the interim administrative
16 rule oversight committee review a proposed rule, approve
17 committee recommendations and provide those recommendations to
18 the agency in written form; and

19 BE IT FURTHER RESOLVED that copies of this memorial be
20 transmitted to the office of the governor and secretaries of
21 state agencies.