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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 230

SHORT TITLE: Interim Admin. Rule Oversight Committee

SPONSOR: Pettigrew/Block/Mason

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/13/2026 **ANALYST:** Gygi

APPROPRIATION* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
	\$2,000.0	Nonrecurring	General Fund

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS	No fiscal impact	Up to \$50.0	No fiscal impact	Up to \$50.0	Nonrecurring	Other state funds
LCS	No fiscal impact	At least \$1,000.0	At least \$1,000.0	At least \$2,000.0	Recurring	General Fund
Executive Agencies	No fiscal impact	\$60.0 to \$300.0	\$60.0 to \$300.0	\$120.0 to \$600.0	Recurring	General Fund
Total	No fiscal impact	At least \$1,060.0	At least \$1,060.0	At least \$2,0120.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Joint Resolution 11, House Bill 231, Senate Bill 253 and Senate Bill 258

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

State Ethics Commission

Higher Education Department

Agency or Agencies That Were Asked for Analysis but did not Respond

Attorney General

Department of Finance and Administration

SUMMARY

Synopsis of House Bill 230

House Bill 230 (HB230) appropriates \$2 million from the general fund to the Legislative Council Service (LCS) for staff for the interim Administrative Rule Oversight Committee and other costs for establishing the committee.

The bill establishes the Interim Administrative Rule Oversight Committee as a permanent joint interim legislative committee and sets its membership, duties, and rule review procedures. The committee would be created in conjunction with HJR11, which proposes a constitutional amendment to establish legislative authority for this oversight function. HB230 requires the committee to review proposed executive agency rules and authorizes it to provide recommendations and suggest statutory changes to clarify legislative intent.

Notably, HB230 allows the committee:

If it determines a rule does not comply with its authorizing statute, to recommend that the Legislature overturn the rule during a legislative session and authorizes the Legislature to overturn agency rules pursuant to that recommendation

The committee shall consist of twelve legislators appointed by the majority and minority leadership of both the House and Senate; and shall meet at least once per month during the interim between legislative sessions. The bill would enact subsections outlined in the approved constitutional amendment regarding leadership rotation, member terms, vacancies, etc.

HB230 also amends the State Rules Act to require a fiscal impact statement for proposed rules estimated to cost more than \$1 million dollars and allows the committee to request fiscal analysis for other rules.

The LCS is directed to hire no more than four staff members to staff the committee.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

The appropriation of \$2 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund. The appropriation is a one-time appropriation; however, recurring funds would be needed for the staffing and cost of the committee for the duration of its existence.

LFC staff estimate an annual cost of up to \$1 million for LCS to operate the interim committee, including funds for the four FTE allowed by HB230 and costs associated with travel and per diem for committee members. In addition, for the similar 2025 House Bill 358, LFC estimated the cost for other executive agencies would range from \$60 thousand to \$300 thousand per year. This analysis uses the same estimate for other agencies.

Only two agencies submitted analysis for HB230, the Higher Education Department and the State Ethics Commission (SEC). In prior analyses of similar legislation, some executive agencies indicated that establishment of an interim administrative rules oversight committee could result in additional administrative workload and costs. Potential impacts cited included the need for staff with specialized legal, policy, or fiscal expertise to support rulemaking review, additional time devoted to rule hearings and responses, and increased publishing or procedural requirements. Agencies generally reported that the fiscal impact would depend on the volume

and complexity of rulemaking activity in a given year and were therefore unable to estimate precise costs.

SIGNIFICANT ISSUES

According to the National Conference of State Legislatures (NCSL), 43 state legislatures have some type of authority to review administrative rules; some have the power to veto rules. New Mexico is one of the ten states without this function.¹ In the states that have veto authority, the action is usually required through enactment of a statute (13 states) or passage of a resolution (15 states). Generally, legislative reviews of administrative rules are necessary to ensure proper separations of powers, and that legislative intent is maintained when implementing state law – in essence this government function prevents a conflict between administrative rule and statute. In New Mexico, the only remedy when an executive branch agency’s rules exceed the authority granted in state law is by challenging the agency’s rule through the judicial process and the courts.

During the 2025 legislative interim there were 25 interim committees.

In its analysis for a similar bill in 2025, the SEC reported agencies in New Mexico published 101 notices to either promulgate entirely new rules or amend existing rules in 2024. *See* New Mexico Commission of Public Records, New Mexico Register, Cumulative Index, Volume XXXV, Issues 1–24. (2024)

<https://www.srca.nm.gov/nmac/nmregister/pdf/2024%20index%201-24.pdf>.

THE STATE RULES ACT

The State Rules Act governs how executive agencies in New Mexico adopt, amend, or repeal administrative rules. A rule is any rule, regulation, or standard that explicitly or implicitly implements or interprets federal or state legal mandates or other applications of the law issued or promulgated by a state agency.

The State Rules Act includes specific procedures to notify the public about rulemaking and provide opportunities for public commentary. The State Records Administrator, appointed by the Commission of Public Records, is statutorily charged with administering rulemaking under the State Rules Act, and all administrative rules promulgated are filed by this agency. The State Records Administrator also publishes all notices of rulemaking and promulgated rules in the New Mexico Register and posts all effective rules on the New Mexico Administrative Code (NMAC) website. Except in the case of emergency rule, no rule shall be valid or enforceable until it is published in the New Mexico Register.

In 2017, the Legislature amended the State Rules Act through House Bill 58, which clarified requirements and standards for the rulemaking processes, including standard timelines, notices, and public participation processes. House Bill 58 also prohibited the promulgation of rules in conflict with statute. With the passage of this bill, New Mexico followed a handful of other states that allow limited, information-only review of rules. However, New Mexico statutes do not

¹ <https://www.ncsl.org/about-state-legislatures/separation-of-powers-legislative-oversight>

currently prevent or limit the promulgation of rules with a fiscal impact.

ADMINISTRATIVE IMPLICATIONS

HB230 likely will increase administrative workload for state agencies and higher education institutions involved in rulemaking. HED comments:

Staff time may be needed to prepare additional fiscal documentation, coordinate with legislative staff, and manage extended review timelines. While the bill does not assign new programs to NMHED, it introduces additional procedural steps that could increase administrative complexity during the rule development process.

HED also notes that several provisions in HB230 would benefit from additional clarification.

The bill requires legislative review of proposed rules, but does not clearly define how committee recommendations would affect an agency's authority to proceed with rule adoption if the agency disagrees. It is also unclear how the review timeline would interact with statutory or federal deadlines that agencies, including NMHED, may be required to meet when adopting rules.

The bill expands fiscal impact statement requirements but does not specify the level of detail, methodology, or standard assumptions agencies should use when estimating costs. This may lead to inconsistent reporting across agencies and create uncertainty regarding compliance expectations.

Additionally, the relationship between the committee's review role and existing executive branch rulemaking authority is not fully defined. Further clarification regarding procedural timelines, agency response obligations, and how conflicts between committee recommendations and agency determinations would be resolved may improve implementation and reduce administrative uncertainty.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 230 is a companion bill to HJR11 and House Bill 231. HJR11 proposes a constitutional amendment to authorize the creation of an interim administrative rule oversight committee and to allow the Legislature to overturn agency rules. If HJR11 is not approved by voters, the constitutional authority envisioned in HB230 would not be established.

HB230 is also a companion bill to House Bill 321 which requires state agencies to provide email addresses for the agency's custodian of rulemaking records to the legislative council service, which will maintain that list for distribution to state legislators.

HB230 relates to Senate Bill 253 and Senate Bill 258, both of which would amend the State Rules Act. SB253 would require state agencies to conduct and disclose fiscal analyses related to proposed rules and prevent the executive branch from adopting rules that result in a fiscal impact without an appropriation from the Legislature. SB258 would require LFC to prepare fiscal impact reports of rules of significant fiscal impact upon the request of legislative leadership.

HB231 is nearly identical to HB358 introduced in the 2025 Legislature and relates to Senate Bill

423 introduced in the 2025 Legislature which would have established the same oversight committee without a constitutional amendment.

TECHNICAL ISSUES

The State Ethics Commission points out the scope of which agencies are subject to oversight by the oversight committee is unclear because HB 230 does not define what constitutes an “executive agency:”

There are three reasonable interpretations of “executive agency” that the Committee could consider. First, the Committee could limit its oversight scope to be the same as the scope of the State Rules Act.² Second, the Committee could limit its oversight to agencies that are organized under Article V of the New Mexico Constitution.”³ Lastly, the Committee could limit its oversight to the agencies organized under Chapter 9 NMSA 1978.⁴

OTHER SUBSTANTIVE ISSUES

The Levin Center for Legislative Oversight has noted that “administrative rule review is one of the most complex and most contested arenas for legislative oversight,” and that state courts have rejected certain forms of legislative review in some jurisdictions.

In its analysis of similar legislation, the New Mexico State Ethics Commission raised concerns that aspects of the proposed oversight structure could implicate separation-of-powers considerations, particularly with respect to constitutionally created executive agencies exercising independent authority under Article V of the New Mexico Constitution.

At the same time, as noted above, legislative review of administrative rules is a common oversight function nationally. According to the National Conference of State Legislatures, most states with legislative review authority focus on assessing whether rules are consistent with statutory authority, legislative intent, and constitutional requirements.

² The State Rules Act applies to “any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches of the state government.” See NMSA 1978, 14-4-2(A).

³ These agencies are the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, the commissioner of public lands, N.M. Const. Art. V, § 1. Article V, and the State Ethics Commission. N.M. Const. art. V, § 17.

⁴ These agencies are the Children, Youth and Families Department, NMSA 1978, §§ 9-2A-1 to -24, the Corrections Department, NMSA 1978, §§ 9-3-1 to -13, the Cultural Affairs Department, NMSA 1978, §§ 9-4A-1 to -27, the Energy, Minerals, and Natural Resources Department, NMSA 1978, §§ 9-5A-1 to -11, the Department of Finance and Administration, NMSA 1978, §§ 9-6-1 to -21, the Department of Health NMSA 1978, §§ 9-7-1 to -18, the Department of Environment, NMSA 1978, §§ 9-7A-1 to -17, the Health Care Authority, NMSA 1978, §§ 9-8-1 to -14, the Taxation and Revenue Department, NMSA 1978, §§ 9-11-1 to -15, the Economic Development Department, NMSA 1978, §§ 9-15-1 to -59, the Regulation and Licensing Department, NMSA 1978, §§ 9-16-1 to -16, the Department of Public Safety, NMSA 1978, §§ 9-19-1 to -14, the Indian Affairs Department, NMSA 1978, § 9-21-1 to -16, the General Services Department, NMSA 1978, §§ 9-17-1 to -9, the Veterans’ Services Department, NMSA 1978, §§ 9-22-1 to -22, Aging and Long-Term Services Department, NMSA 1978, §§ 9-23-1 to -14, the Public Education Department, NMSA 1978, §§ 9-24-1 to -15, the Higher Education Department, NMSA 1978, §§ 9-25-1 to -14, the Department of Workforce Solutions, NMSA 1978, §§ 9-26-1 to -17, the Department of Information Technology, NMSA 1978, §§ 9-27-1 to -27, the Department of Homeland Security, NMSA 1978, §§ 9-28-1 to -7, and the Early Childhood Education and Care Department, NMSA 1978, §§ 9-29-1 to -13.

ALTERNATIVES

In addition to review functions, NCSL notes that other state legislatures maintain oversight of executive agency rules through sunrise and sunset provisions and evaluation studies and performance audits. New Mexico's Legislature has robust evaluation and audit processes.

KG/dw/ct