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FISCAL IMPACT REPORT

BILL NUMBER: House Joint Resolution 11

SHORT TITLE: Interim Admin. Rules Oversight Committee, CA

SPONSOR: Pettigrew/Block/Mason

LAST ORIGINAL
UPDATE: 2/13/26 **DATE:** 2/11/26 **ANALYST:** Gygi

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 Bill 230, 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 Joint Resolution 11

House Joint Resolution 11 (HJR11) amends Article Four of the Constitution of New Mexico by adding language to create a permanent interim Administrative Rule Oversight Committee consisting of 12 members who are to meet one time per month during the interim and suspend meetings during the legislative session. Three members each would be appointed by the majority floor leader of the House of Representatives, minority floor leader of the House of

Representatives, majority floor leader of the Senate, and minority floor leader of the Senate for two-year terms expiring on the first day of each odd-numbered year. The committee would review proposed executive agency rules, provide recommendations, and assess whether rules align with authorizing statutes. If the committee determines a rule does not comply with legislative intent, it may recommend that the Legislature overturn the rule during a legislative session.

This resolution requires that the proposed constitutional amendment be submitted to voters for approval or rejection at the next general election, or at a special election held prior to that date if called for that purpose.

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

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. The number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$35 thousand to \$50 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

There is no appropriation attached to HJR11. However, the companion House Bill 230, includes a \$2 million dollar appropriation to the Legislative Council Service to staff the proposed committee and support its operations. Should this proposed constitutional amendment be approved by voters, this analysis estimates an annual cost of up to \$1 million for LCS to operate the interim committee. 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.

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

New Mexico's Constitution vests legislative authority, including the power of appropriation, in the legislative branch. Article IV of the New Mexico Constitution provides that "money shall be paid out of the treasury only upon appropriations made by the legislature." Executive agencies are authorized to promulgate administrative rules to implement statutes enacted by the Legislature, but such rules may not exceed statutory authority or conflict with legislative intent,

including fiscal intent expressed through appropriations.

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.

Based on New Mexico Record’s Center cumulative index, in 2024, agencies published 101 notices to either promulgate entirely new rules or amend existing rules. *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>.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR11 relates to House Bill 230 (HB230) would amend statute to establish the oversight committee and the administrative structure to implement and administer the proposed interim rules committee. HB230 includes an appropriation of 2 million dollars to the Legislative Council Service to staff the committee and support its operations. If HJR11 is not approved by voters, the constitutional authority envisioned in HB230 would not be established.

HJR11 relates 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.

HJT11 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.

HJR11 relates to HB358 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 HB230 does not define what constitutes an

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

“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 in 2025, 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 (NCSL), most states with legislative review authority focus on assessing whether rules are consistent with statutory authority, legislative intent, and constitutional requirements.

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.

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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.