

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

BILL NUMBER: Senate Bill 253

SHORT TITLE: Prohibit Certain Agency Rules

SPONSOR: Sharer/ Muñoz

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/9/2026 **ANALYST:** Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	Recurring	General Fund
Total	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 258, House Bill 230, House Bill 231, and House Joint Resolution 11

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the Courts

Higher Education Department

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

Department of Finance and Administration

New Mexico Attorney General

New Mexico Commission of Public Records

Legislative Council Service

SUMMARY

Synopsis of Senate Bill 253

Senate Bill 253 (SB253) amends the State Rules Act to prohibit executive agencies from adopting rules that cause a negative fiscal impact to the general fund, other state funds, or other state revenues without prior legislative appropriation for the purpose for which the rule is proposed or in cases where the proposed rule is greater than a prior legislative appropriation for the purpose for which the rule is proposed.

As part of notices of rulemaking, state agencies would be required to cite any prior legislative appropriations related to the proposed rules along with an analysis of the fiscal impact of the

proposed rule.

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

Senate Bill 253 would prevent the promulgation of rules and regulations that result in a fiscal impact to the state without an appropriation. In so doing, the bill may limit or prevent an indeterminate positive fiscal impact by preventing the executive branch from committing the state to a financial obligation not authorized by the Legislature.

As noted in the significant issues section, states with legislative veto authority over executive rulemaking have heard legal challenges related to vetoed rules. While SB253 does not provide legislative veto authority, it could result in legal challenges related to the fiscal analysis that would prevent an agency from promulgating rules with a negative fiscal impact. These legal costs are also indeterminate.

In addition, agency analysis suggests SB253 could result in increased administrative costs associated with printing notices of rulemaking. According to the New Mexico Commission of Public Records website, the New Mexico Register fee for publishing is \$3.00 per columnar inch, which works out to approximately \$75 to \$85 for each page of text. The bill could also result in increased publication fees associated with fiscal analyses, as statute requires legal notices be published in a newspaper.

Finally, SB253 would require fiscal analysis be included with rulemaking materials. While the bill does not specify who should conduct this analysis, the bill could result in increased workload for state agencies, Department of Finance and Administration, and Legislative Finance Committee staff. This additional workload could potentially be absorbed within existing agency resources.

The Administrative Office of the Courts analysis anticipates the bill has no fiscal or administrative impact on the courts.

SIGNIFICANT ISSUES

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

New Mexico's Constitution vests the authority to appropriate within the legislative branch; Article IV of the New Mexico Constitution stipulates, "money shall be paid out of the treasury only upon appropriations made by the legislature." SB253 reaffirms the sole authority of the Legislature to commit funds from the state treasury by requiring a fiscal analysis for proposed rulemaking and prohibiting the executive branch from promulgating rules that have a negative fiscal impact without the authority of the legislature. Over the last decade, executive administrations have promulgated rules that have resulted in fiscal impacts to the state, with examples including school and teacher evaluation and accountability systems, payment rate increases for healthcare providers who receive Medicaid reimbursement, and the adoption of vehicle standards for the state's motor vehicle fleet. 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.

According to the National Conference of State Legislatures (NCSL), legislatures in 43 states have some form of oversight over administrative rules to ensure rules comply with statutory authority and legislative intent, and some state legislatures have the authority to veto rules. According to NCSL, state courts have heard challenges to legislative veto of administrative rules in at least 21 states.

ADMINISTRATIVE IMPLICATIONS

Analysis from the Higher Education Department (HED) notes Chapter 9, Article 25 NMSA 1978 provides that the Secretary of Higher Education may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions. HED analysis suggests the agency is unclear about whether the procedural rules would be subject to the provisions of SB253.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Senate Bill 258, which could require the Legislative Finance Committee to prepare fiscal impact reports of rules of significant fiscal impact upon the request of legislative leadership.

Relates to House Bill 230, which would create an interim administrative rule oversight committee and require notices of proposed rulemaking include a fiscal impact statement.

Relates to House Bill 231, which establishes processes for distributing rulemaking information to state legislators.

Relates to House Joint Resolution 11, which proposes a constitutional amendment to create a permanent interim administrative rule oversight committee within the legislature.

RMG/SEC/dw/ct