

<b>LFC Requester:</b>	<b>Caroline Malone</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

Original  Amendment   
Correction  Substitute

Date February 2, 2015  
Bill No: SB 219

Lynn Southard 2/2/15 1:21 PM  
Deleted: January 30, 2015  
Valicenti, Mona, Civil... 1/30/15 11:14 AM  
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Sponsor: Sen. Lee S. Cotter Agency Code: Attorney General's Office  
Short Person Writing Jennifer Salazar, AAG  
Title: Expiration of Rules Phone: 827-6990 Email jsalazar@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A  
Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis:

SB 219 would enact a new section of the State Rules Act, NMSA 1978, §§ 14-4-1 to -11 (1967, as amended through 1995). Specifically, the Bill seeks to sets a July 1, 2020 expiration date for “all rules.” The only entity exempt from this requirement is the Taxation and Revenue Department.

Rules adopted after July 1, 2020, shall expire on July 1 five years from the calendar year in which the rule was published in the New Mexico Register. An agency ~~may not refile a rule after it expires unless, prior to the rule’s expiration date, the agency conducts a review of the rule to determine whether it is still necessary or useful.~~ An entity may hold a public hearing regarding the rule if the agency deems a hearing is necessary as part of the review of the rule.

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

Section 1 of SB 219 provides that an agency must eliminate a rule if the agency’s review of the rule determines that the rule is no longer “applicable, cost-effective, timely or necessary.” The word “timely” is ambiguous in this context. The drafters might consider replacing it with a different term, such as “pertinent” or “relevant” or eliminating it.

The last sentence of Section 1 states: “The provisions of this section do not apply to a rule adopted or filed within two years of the rule’s expiration date.” It is not clear whether this exception applies to rules adopted or filed within two years of July 1, 2020 or is intended to apply to rules adopted after July 1, 2020. The sentence is also confusing because, taken literally, it suggests that if an agency adopts and files a rule within two years of the rule’s expiration date,

- Elizabeth Glenn 1/30/15 10:30 AM  
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the newly adopted rule would be exempt from SB 219's 5-year expiration and review requirements. This sentence should probably be deleted or revised so that its meaning is clear.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS**

See discussion above under "Significant Issues."

Elizabeth Glenn 1/30/15 10:38 AM

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-  
This legislative proposal could also have potentially disastrous if, for example, an agency is not able to conduct, or complete, a review before the rule's expiration at the end of five years.

Elizabeth Glenn 1/30/15 11:06 AM

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