

LFC Requester:

Lance Chilton

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/05/2025

Check all that apply:

Bill Number: HB 245

Original Correction
Amendment Substitute

Sponsor: Rep. Debra M. Sarinana, Rep. Craig W. Brandt, Rep. Alan T. Martinez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing Analysis: Mari Kempton

Short Title: Compensation for Veterans' Benefits

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|---------------------------------|------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1: House Bill 245 (“HB245”) proposes to create a new statute prohibiting individuals from receiving compensation for advising, consulting, or assisting veterans with applications for veterans’ benefits unless the individual is accredited with the U.S. Department of Veterans Affairs. HB245 proposes to incorporate certain federal law requirements for these services into state law.

Section 2: HB245 proposes to amend NMSA 1978, Section 57-12-2(D) by adding language and adding a new part Section 57-12-2(D)(19) making violations of the proposes Section 1 a violation of the New Mexico Unfair Practices Act. HB245 would also amend 57-12-2(D)(19) to become 57-12-2(D)(20).

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

Section 1 (C) at Page 3, Lines 5-9 seems to be missing an object for grammatical purposes;

consider substituting “memorialize the agreement for compensation in a writing signed by both parties” at Page 3, Line 9.

OTHER SUBSTANTIVE ISSUES

HB245 appears to add language in Section 1 that is already prohibited by federal law. The exemption in Section 1 Subsection (D) for accredited representatives, agents and attorneys seems to be redundant to the proposed language of Subsections (B) and (C). Federal law only permits accredited agents and attorneys to assist with benefits matters and receive compensation. 38 CFR §14.636 (“Only accredited agents and attorneys may receive fees from claimants or appellants for their services provided in connection with representation.”). If accredited agents and attorneys are the only people who can legally provide services and charge for them but are exempted from the requirements of Section 1 of the bill, then Sections 1(B)(3), (B)(5), and (C) will not apply to anyone. Under federal law, similar restrictions do apply to accredited agents and attorneys. *See* 38 CFR § 14.636 (c)(1)(i)(prohibiting charging of fees prior to a notice of decision), 38 CFR §14.632 (c)(5)(prohibiting unreasonable fees), 14 CFR §14.636 (g)(requiring fee agreements to be in writing signed by both parties). Section 1 Subsection (D) as proposed may be viewed as redundant, since Section (B)(1) already appears to provide the exception “as permitted under federal law.”

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A