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| LFC Requester: | Felix Chavez |
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO [AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** Feb. 12, 2025 *Check all that apply:*  
**Bill Number:** House Bill 359 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Pettigrew & Rep. Zamora **Agency Name and Code** State Ethics Commission (410)  
**Short Title:** Perjury for False Legislative Testimony **Number:** \_\_\_\_\_  
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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 |                           |               |
|                   |      |      |                           |               |
|                   |      |      |                           | General       |

(Parenthesis ( ) indicate revenue decreases)

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

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

|              |               |               |               |  |  |  |
|--------------|---------------|---------------|---------------|--|--|--|
| <b>Total</b> | Indeterminate | Indeterminate | Indeterminate |  |  |  |
|--------------|---------------|---------------|---------------|--|--|--|

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB 359 amends the criminal perjury statute, NMSA 1978, Section 30-25-1, by expanding the actions that constitute perjurious conduct to include knowingly making a false statement in a legislative proceeding, including hearings of standing or interim committees. This applies regardless of whether the person was sworn under oath, advised that their testimony is subject to the penalty of perjury, or otherwise required to affirm their commitment to speak truthfully. However, this provision does not apply to statements made by a member of the public during designated public comment periods.

**FISCAL IMPLICATIONS**

There are no fiscal implications for the State Ethics Commission.

**SIGNIFICANT ISSUES**

The new provisions of the perjury statute raise a question of enforceability to the extent that it would hold criminally liable someone who did not commit or swear under oath to tell the truth. See Rule 11-603 NMRA. In general, the *mens rea* requirements in criminal law would likely require that a person at the very least commit to giving truthful statements to the legislature before being held criminally liable for *knowingly* failing to do so. See also *State v. Campos*, 1996-NMSC-043 ¶ 38, 122 N.M. 148 *abrogated on other grounds by State v. Groves*, 2021-NMSC-003, 478 P.3d 915 (knowledge crimes require either conscious wrongdoing or the purposeful doing of an act that the law declares to be a crime). While the proposed amendment includes “knowing that statement to be untrue” it does not require the statement to be under oath, affirmation, or penalty of perjury. Including “oath, affirmation or penalty of perjury” provides an individual providing testimony that their statements are subject to prosecution, a requirement HB 359 would remove.

This poses a second question related to the constitutionality of the proposed changes. An individual has a Fifth Amendment right against self-incrimination which includes the fear of perjury. If someone is not properly informed of their rights to avoid self-incrimination, then their rights under the Fifth Amendment will form the basis of a defense against such claims against them. Section 30-25-2 of the perjury statute supports this premise, which provides: “refusal to take oath or affirmation consists of the refusal of any person, when legally called upon to give testimony before any court, administrative proceeding, legislative proceeding or other authority in this state, authorized to administer oaths or affirmations, to take such oath or affirmation. Whoever commits refusal to take oath or affirmation is guilty of a petty misdemeanor.” § 30-25-2 (1963).

**PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

**AMENDMENTS**