

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

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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: 2/4/25 *Check all that apply:*
Bill Number: SB 259 Original Correction
 Amendment Substitute

Sponsor: Sen. Katy M. Duhigg **Agency Name and Code:** AOC
Short Title: Professional Fundraiser Requirements **Number:** 218
Person Writing: Kathleen Sabo **Phone:** 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	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
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 62 (also amending Section 57-22-9.1 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 259 amends statutory sections within the Charitable Solicitations Act (CSA), Section 57-22-1 NMSA 1978 et. seq, to include third-party solicitors, defined as those who contract with a charitable organization to facilitate the sale of nonperishable goods as a fundraising mechanism, within the provisions of the CSA.

SB 259, Section 3, amending Section 57-22-6.1(F) NMSA 1978, provides that in addition to a late fee of \$500, a professional fundraiser of third-party solicitor who fails to comply with registration or reporting requirements is required to be assessed an administrative penalty of \$200 per violation.

SB 259, Section 4, amending Section 57-22-6.3 NMSA 1978, prohibits a third-party solicitor from engaging in deceptive third-party soliciting practices, including:

- Misleading a person regarding sponsorship, endorsement or approval of the solicitation;
- Representing that a charitable organization will receive a greater percentage of revenue than outlined in the professional fundraiser's or third-party solicitor's contract; and
- Failing to disclose the market value of donated nonperishable goods to the charitable organization.

SB 259, Section 7, amending Section 57-22-9.1 NMSA 1978, permits the Attorney General (AG) to require a financial audit, conducted by an independent certified public accountant, for any charitable organization, professional fundraiser or third-party solicitor, in addition to the AG recovering, on behalf of the state, a maximum civil penalty of \$5,000 per violation, in an action brought pursuant to the CSA, if the court finds that a person has violated a provision of that Act or rules promulgated pursuant to the Act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced actions seeking injunctive relief, civil penalties financial accounting or restitution, as well as petitions to set aside a demand, and appeals from the imposition of penalties. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) Section 12-8-16 NMSA 1978, within the Administrative Procedures Act, permits any party who has exhausted all administrative remedies available within the agency and who is adversely affected by a final order or decision in an adjudicatory proceeding may appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978. Section 12-8-2

NMSA 1978 defines “agency” to mean “any state board, commission, department or officer authorized by law to make rules, conduct adjudicatory proceedings, make determinations, grant licenses, impose sanctions, grant or withhold relief or perform other actions or duties delegated by law, and which is specifically placed by law under the Administrative Procedures Act”.

The SB 259 amendment to Section 57-22-6.1(F) NMSA 1978 requires a professional fundraiser or third-party solicitor who fails to comply with registration or reporting requirements to be assessed an administrative penalty of \$200 per violation.

If the AG is considered to be an agency under Section 12-8-2 NMSA 1978, permitted to appeal under Section 12-8-16 NMSA 1978, then a professional fundraiser or third-party solicitor assessed an administrative penalty under Section 57-22-6.1(F) NMSA 1978 has a right of appeal of a final decision of the AG to the district court.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 62 (also amending Section 57-22-9.1 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS