

<b>LFC Requester:</b>	<b>SIMON, JOSEPH</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** Feb 14 *Check all that apply:*  
**Bill Number:** SB356 Original  Correction   
 Amendment  Substitute

**Sponsor:** S. Pinto, L. Lopez, A. Sedillo **Agency Name**  
Lopez, H. Pope **and Code** State Personnel Office 378  
**Short** Diversity Act **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	250K	Nonrecurring	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
n/a	n/a	n/a		

(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>	n/a	275K	290K	565K	Recurring	

(Parenthesis ( ) Indicate Expenditure Decreases)

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### **Synopsis:**

SB356 enacts the Diversity Act.

SB356 defines words and phrases such as diversity, equality, equity, inclusion, inequities, institutional racism, underserved communities, and workforce diversity for clarity.

SB356 creates the position of Chief Diversity Officer (CDO) within the State Personnel Office (SPO) and establishes the background, education, and experience requirements for the CDO position.

SB356 outlines the duties of CDO to:

- lead the development and implementation of proactive diversity, equality, equity and inclusion initiatives in support of the state's strategic plan to create a culture of diversity, equality, equity and inclusion;
- collaborate with and support other state agencies in assessing potential barriers and developing strategies for state agencies to recruit and retain a diverse workforce;
- assess state agencies' needs for, and recommend training initiatives on, cultural competency, gender identity differences, disability, accessibility, sexual harassment and other topics designed to increase awareness and support of equity, equality and inclusive values;
- ensure that all state agencies maintain compliance with all relevant and applicable laws and rules;
- exercise authority to advise state agencies regarding matters for which the CDO has authority pursuant to the Act;
- have full access to SPO's human resource management systems;
- establish and maintain state-agency-specific strategic plans that publicly state diversity definitions and goals for the state agency;
- define a set of strategic metrics that are directly linked to key organizational priorities and goals actively used to implement the strategic plan;
- establish training regarding diversity dynamics and best practices for effectively leading diverse groups;
- establish and maintain a strategic plan for outreach to, and recruiting from, underserved communities;
- conduct regular, rigorous evaluations and assessments of diversity for state agencies; and
- perform such additional duties and exercise such powers as the State Personnel Director may prescribe.

SB356 requires the CDO no later than December 31 of each year:

- conduct an evaluation of race as self-identified by applicants, candidates and employees subject to the Personnel Act as related to hiring, promotion, retention and pay;
- develop policies to identify, assess, reduce and prevent inequities due to institutional racism in hiring, promotion and pay for those agencies with positions to which the provisions of the Personnel Act apply;

- conduct an analysis of state government employment data sets of race, as self-identified by employees, to track progress toward ending institutional racism; and
- develop and provide anti-institutional racism training for all employees subject to the Personnel Act that shall include:
  - a historical perspective on New Mexico, spotlighting the many racial and ethnic subpopulations that live and work in New Mexico and the need for all New Mexicans to be aware of, appreciate and celebrate the cultural differences in the state;
  - strategies to eliminate cultural prejudices and discrimination while strengthening the common threads that bind individuals to one state and one country;
  - strategies to improve engagement with employees, customers or clients from different cultural backgrounds; and
  - strategies to counteract unconscious bias and foster a climate of diversity and inclusion in the state government workplace.

SB356 creates a Workforce Diversity and Inclusion Council (WDIC) as follows:

- a Diversity and Inclusion Liaison will be designated by each state agency, reporting directly to the head of the state agency and will collaborate with the CDO
- the CDO will convene the WDIC composed of the Diversity and Inclusion Liaisons from each state agency,
- each Diversity and Inclusion Liaison will:
  - provide the CDO with data required pursuant to the Act,
  - work with the CDO to implement recommendations proposed by state agencies or the CDO, and
  - assist the CDO in developing and providing anti-institutional racism training for employees subject to the Personnel Act, and
- the CDO, in collaboration with the Diversity and Inclusion Liaisons, will ensure that a prominent statement is included on all job advertisements committing to the reduction and prevention of institutional racism and requiring employees to participate in anti-institutional racism training.

SB356 also requires that each state agency submit a report no later than July 1 of each year to the CDO on the activities of the agency pursuant to the Act, including:

- demographic data on the agency's job applicants, new hires, internally promoted employees, members of external advisory committees or boards appointed by people in senior positions at the agency, and employees participating in professional development, mentorship, or retention programs.
- aggregate demographic data for all employees, including race where self-identified,
- an assessment of the agency's compliance with relevant elements identified by the US EEOC,
- an assessment of the agency's anti-institutional racism policies,
- the steps in the agency's hiring and promotion processes that incorporate diversity, equity, and inclusion (DEI),
- data on the promotion outcomes of women and racial or ethnic minorities,
- demographic data of contractors and subcontractors, NGOs, and civil society organizations that win bids or obtain contracts with the agency,
- a description of the agency's efforts to propagate rules of fairness, impartiality and inclusion,
- the agency's efforts to enforce anti-harassment and anti-discrimination policies,

- the agency’s acknowledgment of its obligation to refrain from unlawful discrimination in any phase of the employment process,
- the agency’s intentions to prevent retaliation for state employees participating in employment-related activities protected by state or federal law,
- an assessment of the agency’s obligation to deliver reasonable accommodations for state employees with disabilities, and
- recommendations using data-driven approaches toward advancing solutions for identified problems and proactive measures addressing DEI in the workforce.

The CDO is then tasked with compiling the agencies’ data and submitting a report no later than October 1 of each year to the Governor, the appropriate interim legislative committee, the legislative finance committee and the legislature as part of the annual fiscal budget request. A copy of the report shall be published on the SPO website and maintained in the legislative council service library, the state library and the state records center and archives.

SB356 also calls for each agency head, in coordination with the CDO and the agency Diversity and Inclusion Liaison, to develop a comprehensive DEI strategic plan that will:

- integrate DEI goals into the mission, programs, and infrastructure of the agency, and outline:
  - proactive measures that address equal opportunities pursuant to federal and state law,
  - intentions of fostering pay equity pursuant to federal and state law,
  - practices to promote DEI in hiring, promotion, retention, succession planning and leadership opportunities, and
  - practices of employee engagement and inclusivity in the workforce.

Agency heads will coordinate with the CDO to achieve DEI goals.

SB356 appropriates \$250,000 in FY26 to carry out the provision of the Diversity Act with any unexpended or unencumbered balance remaining at the end of FY26 being reverted to the general fund.

The effective date of SB356 is July 1, 2025.

## **FISCAL IMPLICATIONS**

SPO supports the creation of a CDO and notes two fiscal implications of concern that may hamper the success of SB356:

SB356 includes an appropriation of \$250,000 to SPO in FY26. This will cover the salary of the CDO and other costs of implementing the Act in FY26 but does not state how or if the CDO position or the implementation of the Act will be funded in future years.

\*A better alternative would be to put reoccurring funding for this program in the Growth and Opportunity Fund.

Additionally, SB356 requires every state agency to develop and maintain a comprehensive DEI strategic plan and to generate and compile significant data and analysis of its programs for inclusion in a report every year but provides no appropriations to cover the increased costs to

state agencies' operating budgets.

## **SIGNIFICANT ISSUES**

Again, State Personnel supports the creation of a CDO. The following issues are pointed out to help SB356 succeed.

SB356 provides a number of key definitions, but a definition of “demographic data” might also be useful.

While SB356 designates the CDO as a classified position within SPO, it also states the CDO shall be hired by and serve at the pleasure of the State Personnel Director. This is a contradiction. A State of New Mexico employee can either be part of the classified service and terminated only for just cause or be part of the Governor Exempt service and terminable at will, but not both. Along these same lines, the bill establishes the background, education and experience requirements for the CDO position, but the State Personnel Board is responsible for adopting the minimum and recommended qualifications for all classified State employee positions.

SB356 requires the CDO to “ensure that all state agencies maintain compliance with all relevant and applicable laws and rules,” but this gives the CDO unnecessarily broad responsibilities. Respectfully, it would be more fitting for the CDO to “*consult* with state agencies concerning compliance with laws and rules *relevant to DEI efforts*.” This would better reflect the reality that state agencies are each individually responsible for their own compliance with laws and regulations and that the CDO will be a subject matter expert in the areas of DEI, rather than the universe of laws and rules applicable to each agency.

SB356 requires the CDO to “have full access to SPO's human resource management systems,” but “access to SPO's human resources management systems *necessary to carry out the requirements of the Act*” would be more appropriate. For example, while the CDO might need access to aggregated State employee race and gender data, the CDO would not need access to State employee Social Security numbers, home addresses, or time sheet data.

SB356 requires each state agency to include in its annual report to the CDO “an assessment of the agency's compliance with relevant elements identified by the United States equal employment opportunity commission,” but does not make clear the relevant elements being referenced.

## **PERFORMANCE IMPLICATIONS**

The volume of responsibilities and tasks SB356 requires the CDO to perform is more than can reasonably be handled by one FTE. Especially those duties that involve oversight of the DEI efforts of 60+ state agencies, management of 60+ Diversity and Inclusion Liaisons; establishing and maintaining state agency specific strategic plans; and development and implementation of outreach and recruitment initiatives and statewide training designed to reach over 16,000 state employees.

We suggest at least one additional FTE be provided for in SB356 to ensure adequate personnel resources to accomplish the bill's goals.

SB356 includes a one-time allocation of \$250,000 but does not indicate how the CDO and

potential FTE is funded going forward.

SPO estimates two FTE to be \$275,000 in total compensation. This cost would not include additional funding for training or implementation of the program.

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

Status quo regarding DEI within state agencies.

**AMENDMENTS**