

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 and email to 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: February 28, 2025 *Check all that apply:*
Bill Number: SB 385 Original Correction
 Amendment Substitute

Sponsor: <u>Campos</u>	Agency Name and Code Number: <u>AOC 218</u>
Short Title: <u>Attorney General Services for Agencies</u>	Person Writing: <u>Celina Jones</u>
	Phone: <u>505-470-3214</u> Email: <u>aoccaj@nmcourts.gov</u>

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

BILL SUMMARY

Synopsis: SB 385 specifies that the attorney general can charge state agencies for legal services at rates charged by contract counsel providing legal services to the Risk Management Division.

FISCAL IMPLICATIONS

The judiciary relies upon the department of justice for consultation and representation every year, and currently does not compensate the department of justice for services. The need for services is episodic and therefore varies from year to year. AOC does not have sufficient information about the attorney general's planned rate schedule to estimate the appropriation needed to fund the legal services on an annual basis.

SIGNIFICANT ISSUES

1) Duties of the attorney general specified Section 8-5-2 include:

A. prosecute and defend all causes in the supreme court and court of appeals in which the state is a party or interested;

B. prosecute and defend in any other court or tribunal all actions and proceedings, civil or criminal, in which the state may be a party or interested when, in his judgment, the interest of the state requires such action or when requested to do so by the governor;

C. prosecute and defend all actions and proceedings brought by or against any state officer or head of a state department, board or commission, or any employee of the state in his official capacity.

E. prepare drafts for contracts, bonds and other instruments of writing which may be required for the use of the state whenever requested to do so by any state officer;

SB 385 does not clarify whether charges to agencies are going to include the statutory tasks found in section 8-5-2. The most efficient process may be for the attorney general to continue to make budget requests sufficient to pay staff to conduct these regular, statutory duties.

2) Currently, RMD does not obtain reimbursement from state agencies for representing them at the outside counsel rates paid by RMD. The proposal for compensation to the attorney general would raise a disparity in how the two entities are funded, and raise the question of why charging entities for services is appropriate for the attorney general and not for RMD.

3) Instead of being limited by the schedule published by GSD, the AGO will charge agencies the rate charged by private counsel when contracted by RMD. The rate needs to be clarified in order to discuss the impact of the proposed change to the existing statute.

4) Outside counsel contracting with RMD have to pay taxes on income from RMD, overhead (rent, etc.), CLE and Bar dues for attorneys, and otherwise compensate in their rates for expenses with which the attorney general is not burdened. Therefore, the RMD rates assessed to agencies may be higher than can be justified by actual costs to the attorney general.

5) Will the AGO exercise the discretion provided by the statute (“may charge”) based on recent experience with the agency’s need to use attorney general legal services?

PERFORMANCE IMPLICATIONS

Please see “Significant Issues” above.

ADMINISTRATIVE IMPLICATIONS

Please see “Significant Issues” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS