

LFC Requester:	Ismael Torres
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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: February 18, 2025 *Check all that apply:*
Bill Number: SB 419 Original Correction
 Amendment Substitute

Sponsor: Leo Jaramillo **Agency Name and Code** Regulation and Licensing Dept. - 420
Short Title: Financial Exploitation & Certain Transactions **Number:**
Person Writing Benjamin Schrope **Phone:** 505-231-7567 **Email** benjamin.schrope@rld.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
n/a	n/a	n/a	n/a

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: The Financial Industry Regulatory Authority (“FINRA”) Rule 2165

Duplicates/Relates to:

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 419 amends several sections of the current Protecting Vulnerable Adults from Financial Exploitation Act, NMSA 1978, §§ 58-13D-1 through 58-13D-8. The amendments made to the current law are designed to provide additional protections to vulnerable adults in cases where there is a reasonable basis to believe someone may be attempting to financially exploit them.

SB 419 clarifies the current law by articulating specific situations when a broker-dealer, investment adviser, broker-dealer agent, investment adviser representative, or person who serves in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser (hereinafter collectively referred to as the “Securities Industry”) may delay a disbursement or transaction from an account belonging to or benefiting an eligible vulnerable adult (hereinafter referred to as an “Impacted Account”) (pp. 1-2).

SB 419 expands the specified persons and agencies who may extend or terminate a delay of a disbursement or transaction of the Impacted Account and expands the specified persons and agencies that may petition a court to extend the delay or for other protective relief to also include “a state regulator or agency of competent jurisdiction” (pp. 3-5).

HB 419 authorizes broker-dealers and investment advisors to extend a delay of a disbursement or transaction of an Impacted Account so long as specified conditions are met (pp.3-5). HB 419 extends the potential delay of a disbursement from the current maximum of twenty-five (25) business days to a new maximum of fifty-five (55) business days (pp. 3-4). This change to allow for a fifty-five (55) business day maximum delay makes New Mexico law consistent with the federal rule on this matter.

FISCAL IMPLICATIONS

There are no fiscal implications impacting the New Mexico Regulation and Licensing Department (the “RLD”).

SIGNIFICANT ISSUES

SB 419 has the full support of the Regulation and Licensing Department (“RLD”) and has been introduced by the sponsor at the request of the RLD. SB 419 addresses issues impacting the Protecting Vulnerable Adults from Financial Exploitation Act in an effort to clarify any conflict with similar requirements imposed by FINRA Rule 2165, that regulates member broker-dealer firms and further mitigate potential harm to vulnerable adults when financial exploitation is evidenced.

The current New Mexico statute authorizing the Securities Industry to delay a disbursement or transaction of an Impacted Account potentially does not provide sufficient time for a state or

other public agency to conduct any meaningful examination of the surrounding circumstances and make a determination whether and to what extent to intervene while a disbursement or transaction is being delayed. *See* NMSA 1978, § 58-13D-5. The current law also provides a very limited scope of agencies that may intervene with a delay of a disbursement or transaction of an Impacted Account, absent judicial intervention, to the Securities Division (the “Securities Division”) of the RLD and the Adult Protective Services Division (“APS”) of the Aging and Long-Term Services Department. *See* NMSA 1978, § 58-13D-1 et seq.

PERFORMANCE IMPLICATIONS

SB 419 the authorizes the Securities Industry in New Mexico to delay a disbursement or transaction of an Impacted Account for up to fifteen (15) business days provided there exists a reasonable belief that financial exploitation has occurred, is occurring, has been attempted or will be attempted (pp. 1-3). The grounds to delay a disbursement or transaction are not necessarily expanded by SB 419, but better articulated. These better articulated grounds can provide better initial guidance to relevant state-agencies as to the suspected underlying circumstances indicating exploitation.

SB 419 allows for an initial delay of disbursement from an Impacted Account to be extended by ten (10) business days, and potentially to be extended again by up to thirty (30) business days provided that an internal review of the facts and circumstances supports the reasonable belief that financial exploitation has occurred, is occurring, has been attempted or will be attempted (pp. 3-4). This amendment requires specific findings to be made by the Securities Industry before any delay of a disbursement or transaction is made, and requires these findings be made at separate stages, thus requiring continuing and ideally articulated consideration by the Securities Industry prior to acting. More importantly, this amendment provides relevant state agencies additional time to conduct a reasonable assessment, investigation and potentially initiate an action to protect vulnerable adults from financial exploitation.

SB 419 expands the specified persons and agencies who may extend or terminate a delay of a disbursement or transaction of the Impacted Account and expands the specified persons and agencies that may petition a court to extend the delay or for other protective relief to also include “a state regulator or agency of competent jurisdiction” (pp. 3-5). Instances of financial exploitation of vulnerable adults frequently occur outside of the jurisdiction of the Securities Division and APS. Such cases may include affinity fraud, identity theft, romance scams, wiring money overseas for nonexistent goods or services, abuse of power of attorney, etc. The safeguards provided by NSMA 1978, § 58-13D-5 should also exist for victims of financial exploitation that may occur outside the Securities Division’s or APS’s authority.

Regarding the persons or agencies that may petition a court to extend the delay, current law does authorize not only the director of the Securities Division and the director of APS to do so, but also any “other interested party.” NMSA 1978 15-13D-5(C). Therefore, SB 419 does not necessarily expand the possible persons or agencies that may judicially intervene, as any state regulator or agency of competent jurisdiction would presumably already be an “other interested party” under the current act.

ADMINISTRATIVE IMPLICATIONS

The potential length of time in which a disbursement or transaction may be delayed would have little impact on the administration of the Securities Division. The Securities Division would

continue to investigate suspected cases of financial exploitation. If the Securities Division has statutory authority, it will proceed with investigating and taking further action as indicated. The additional delay potentially may provide the Securities Division additional time to decide to judicially intervene to extend the delay beyond fifty-five (55) business days. However, as the Securities Division possesses administrative, civil and criminal enforcement authority, injunctive relief very rarely would occur, so there is no anticipated impact on the budget by increasing court actions or any other actions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Protecting Vulnerable Adults from Financial Exploitation Act currently conflicts with FINRA Rule 2165. FINRA is self-regulatory organization for broker-dealers that is responsible under federal law for supervising member firms.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Securities Industry in New Mexico would have potentially insufficient time to delay a disbursement or transaction when financial exploitation of an eligible adult is suspected. Broker-dealers falling under the authority of FINRA would continue to have a shorter time period under New Mexico law to delay a disbursement or transaction when financial exploitation of an eligible adult is suspected. State regulators or agencies of competent jurisdiction, other than the Securities Division and APS, would not be able to terminate or extend a delay initiated by the Securities Industry.

AMENDMENTS