

LFC Requester: _____

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: 1/21/2025 *Check all that apply:*
Bill Number: HB84 Original Correction
 Amendment Substitute

Sponsor: Eleanor Chavez and Katy M. Duhigg **Agency Name and Code** AOC 21800
Short Title: Free Speech Act – Protecting Employees from Captive Audience Speeches **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
-0-	-0-		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
-0-	-0-			

(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:

HB84 creates the Employee Free Speech Act that protects employees from captive audience speeches, and provides remedies for violations of the Act. The Act prohibits an employer from coercing an employee into attending or participating in a meeting sponsored by the employer concerning the employer's views on political matters. The Act also prohibits retaliation or threats of retaliation against an employee who refuses to attend or listen to the employer's opinion concerning political matters. Employers who violate the Act are liable to the employee for specified damages.

FISCAL IMPLICATIONS

If enacted, the Act is not anticipated to have a fiscal impact on private or public employers.

SIGNIFICANT ISSUES

HB84 will enact legislation to protect workers from the overarching threat of employer coercion, affecting workers from all backgrounds and across the political spectrum without limiting the private employer's rights to express opinions or invite employees to political or religious meetings during work time. HB84 does not limit private employer's rights to express their beliefs freely or even to continue inviting employees to attend workplace political or religious meetings, rather the employees have the right to opt out of unwelcome meetings without the fear of reprisal. Most New Mexico public employers, as well as schools and universities, have enacted policies restricting the direct or indirect coercion or influence over an employee related to a political party, committee, or organization, or similar activities.

HB84 complements existing New Mexico laws, such as

NM Stat § 1-20-13:

- employers may not coerce employees through direct or indirect threats of discharge or discharge them because of their political beliefs or voting activities; and

NM Stat § 10-16-3.1:

– a public officer or employee is prohibited from directly or indirectly coercing or attempting to coerce another public officer or employee to pay, A. directly or indirectly coercing or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose; B. threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities; or C. violating the officer's or employee's duty not to use property belonging to a state agency or local government agency, or allow its use, for other than authorized purposes.

On November 13, 2024, the National Labor Relations Board (NLRB) ruled that captive audience meetings (defined in the NLRB as mandatory meetings where employers pressure employees to listen to their views on unionization) are illegal. Legal discussion boards on the Internet interpret this NLRB ruling as “employers can no longer require employees to attend meetings where the company expresses its views on politics, particularly when those meetings are used to discourage unionization.”

https://www.google.com/search?q=The+recent+NLRB+ruling+declaring+captive+audience+meetings+illegal+means+that+employers+can+no+longer+require+employees+to+attend+meetings+where+the+company+expresses+its+views+on+politics&rlz=1C1GCEV_en&oeq=The+recent+NLRB+ruling+declaring+captive+audience+meetings+illegal+means+that+employers+can+no+longer+require+employees+to+attend+meetings+where+the+company+express+its+views+on+politics&gs_lcrp=EgZjaHljbWUyBggAEEUYOdIBBzU4MmowajeoAgCwAgA&sourceid=chrome&ie=UTF-8

This ruling applies to all employers, including those in New Mexico. Federal law previously allowed employers to require workers to attend captive audience meetings and force employees to listen to political, religious, or anti-union employer views on work time. It also allowed employers to discipline employees who did not attend the meetings.

New requirements under the NLRB for meetings that are not captive audience requires:

- employers to provide employees reasonable advance notice of the meeting,
- attendance must be voluntary and
- no attendance records may be kept (to reduce the potential for retaliation).

HB84 does not include these requirements, but may want to consider including some or all.

In addition to the NLRA, discussions of politics in the workplace implicate a number of labor and employment laws, including anti-discrimination laws and voting leave laws. Conversations regarding political issues can lead to claims of employer discrimination, harassment, or retaliation in violation of federal, state, and local employment anti-discrimination laws. HB84 proactively mitigates employment legal issues before they arise. Other states that have enacted similar legislation report such legislation lowers the risk of employee complaints and simultaneously improves productivity in the workplace.

Several states that have enacted laws banning captive audience laws go a step further by prohibiting the distribution of influential materials, such as compensation materials, that may influence the political opinions or actions of employees, and that they may not display information related to layoffs or compensation 90 days before an election. As of April 2024, 18 states had enacted legislation to protect workers from offensive or unwanted political and religious speech unrelated to job tasks and performance.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

- During the 2023 legislative session, a similar bill HB284, was not passed.
- During the 2013 legislative session, a similar bill HB277, was not passed.
- NM Stat § 10-16-3.1
- NM Stat § 1-20-13
- As affirmed by the Supreme Court’s 1988 ruling *Frisby v. Schultz*, individual states have the authority to legislate to protect individuals from unwanted speech.

TECHNICAL ISSUES

The Act references the objective of protecting employees from captive audience speeches but does not define what a captive audience meeting is. Typically, captive audience meetings have been defined nationally as employer-sponsored mandatory meetings that discuss religious or political matters, including union representation.

A similar bill was proposed in the 2023 legislative session, HB284. The difference between the 2023 HB284 and the 2025 HB84 is the addition of Section (4), which states: nothing in the Act shall prohibit *a religious corporation, entity, association, educational institution or society from communicating on religious matters to employees who perform work connected with the activities undertaken by the religious corporation, entity, association, educational institution or society*. Section (3) does not include religious matters, for example Section (3) A. “(2) states an employer cannot retaliate against an employee who refuses to “listen to speech or view communications, including electronic communication, that communicate political matters.”

It appears that religious matters should be incorporated into Section 3 A.

In addition to the definition of “captive audience,” it appears a definition for “religious matters” is missing. A possible definition for “religious matters” may be religious matters related to (1) religious affiliation and practice and (2) decisions to join or support a religious organization or association.

OTHER SUBSTANTIVE ISSUES

The Act does not provide a mechanism for employers to inform employees of their rights or a mechanism to ensure employers are aware. Will there be posters similar to labor law posters that include this Act, or how will employers and employees be informed? A suggestion would be, if this Act is passed into law, to require the mandatory posting of this Act, similar to other labor law posters for New Mexico employment laws. New Mexico employment law labor posters are available for free from the Department of Workforce Solutions website. <https://www.dws.state.nm.us/en-us/State-and-Federal-Posters>

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS