

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/12/25

Check all that apply:

Bill Number: HB359

Original x Correction
Amendment Substitute

Sponsor: Rep. Randall T. Pettigrew
Rep. Martin R. Zamora

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: Perjury for False Legislative
Testimony

Analysis: Ellen Venegas

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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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 359 seeks to amend New Mexico’s perjury statute, NMSA 1978, § 30-25-1 (2009), to make it a fourth-degree felony to knowingly make a false statement to the Legislature, including at a committee hearing, even if the statement is not made under oath. Broadly speaking, this bill makes it illegal to lie to the Legislature even if you are not sworn in before it. The false statement must be “material to the issue or matter of which the person making the statement has been requested to testify[.]” HB 359 would except from potential criminal penalty statements made by members of the public during the designated public comment period of a standing or interim legislative committee hearing.

FISCAL IMPLICATIONS

None for this office

SIGNIFICANT ISSUES

Under the bill, it is only criminal to make a false statement to the Legislature if the person who makes the statement knows it is false, specifying the necessary criminal intent involved. Punishing only those false statements made knowingly is important to avoid chilling constitutionally protected speech. *See Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 340 (1974) (“[P]unishment of error runs the risk of inducing a cautious and restrictive exercise of the constitutionally guaranteed freedoms of speech and press.”).

To subject an individual to criminal liability, HB 359 requires that the individual be “requested to testify.” However, the bill does not provide any guidance concerning what this means, including who may make such a request or what conduct constitutes testifying. This could subject the law to vagueness or due process challenges. *See, e.g., State v. Marchiondo*, 1973-NMCA-137, ¶ 4, 85 N.M. 627 (“A statute violates due process if it is so vague that persons of common intelligence must necessarily guess at its meaning. The vagueness doctrine is based on notice and applies when a potential actor is exposed to criminal sanctions without a fair warning as to the nature of the proscribed activity.” (text only)); *United States v. Lesh*, 107 F.4th 1239, 1247 (10th Cir. 2024) (“The void for vagueness doctrine addresses two concerns: first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way.” (text only)).

PERFORMANCE IMPLICATIONS

None for this office

ADMINISTRATIVE IMPLICATIONS

None for this office

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A