

LFC Requester:

F. Chavez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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: 02/04/25

Check all that apply:

Bill Number: SB 259Original  Correction Amendment  Substitute Sponsor: DuhiggShort Title: PROFESSIONALFUNDRAISER

Agency Name

and Code

OSA - 308

Number:

Person Writing

David CraigPhone: 505-469-9911Email David.Craig@osa.nm.**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
<b>Total</b>						

(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:

Senate Bill 259 (SB 259) creates regulatory requirements for third-party solicitors to the Charitable Solicitations Act. Among its provisions, SB259 treats third-party solicitors as professional fundraisers and requires: registrations with the Attorney General, a surety bond of \$25,000 and a copy of the contract. SB 259 delineates contract requirements for a third-party solicitor, changes the definition of solicit or solicitation to include nonperishable items, and creates requirements for collection receptacles for donated goods. SB 259 requires third party solicitors to account for the market value of donated goods and report to the contracted charitable organization. SB 259 also allows the Attorney General to contract with a certified public accountant (CPA) to conduct an audit of any charitable organization, professional fundraiser or third-party solicitor.

#### **FISCAL IMPLICATIONS**

Expanding the scope of the Charitable Solicitations Act is likely to increase costs for oversight at the Department of Justice/Office of the Attorney General. Amounts are indeterminant.

#### **SIGNIFICANT ISSUES**

Among its other provisions, SB259 creates contractual requirements between a third party solicitor and a charitable organization that: identifies the compensation of the solicitor and the share, if any, of money earned on the sale of donated nonperishable goods not going to the charitable organization, the location of any collection receptacles, the charitable store or other means of collecting donated goods, the names and addresses of staff of the third-party solicitor and all managers and supervisors of stores in New Mexico and allows the Attorney General to collect other information as necessary.

SB 259 requires solicitors to provide the following to the contracted charitable organization: the location and telephone numbers from which the solicitation campaign will be conducted, if conducted by telephone, a recording of each telephone solicitation, the gross revenue received, and an itemized list of expenses incurred and a sworn statement certifying that the records are true and correct.

SB259 also requires displaying the following collection receptacles being used (in letters at least three inches high): the name, address and telephone number of the charitable organization, any professional fundraiser or third-party solicitor contact information and a statement that the arrangement between the charitable organization and the fundraiser or solicitor is on file with the Attorney General.

#### **PERFORMANCE IMPLICATIONS**

#### **ADMINISTRATIVE IMPLICATIONS**

SB 259 provides that the Attorney General may contract with a CPA to audit a charitable organization, professional fundraiser or third-party solicitor. Currently, provisions of law at 57-22-6 C NMSA 1978 provide that charitable organizations with greater than \$750,000 in expenses that do not already file a Form 990, 990EZ or 990PF with the Attorney General, must have a financial audit. However, provisions of law at 57-22-6 B 2 NMSA 1978 also allow the Attorney General to waive audit requirements if not necessary for the protection of the public interest. It is unclear how these provisions of law would interact. Presumably, the Attorney General would use existing statutes for filing forms and audits, and supplement with the new provision as needed in instances where a professional fundraiser or third party solicitor is involved in the need for an audit under this new section of law. It is assumed that the Attorney General would continue to be able to waive audit filing thus continuing to exercise discretion it currently has.

The Office of the State Auditor does not have oversight of audits for non-governmental charitable organizations. It is assumed the Attorney General would either use the OSA approved IPA list or vet the CPA firm themselves.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**