

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**    January 17, 2024

**Bill No:**    HB 89

**Sponsor:**    Rep. C. Borrego

**Short Title:**    Closed Captioning Act

**Agency Name and**    305 – New Mexico

**Code Number:**    Department of Justice

**Person Writing**    Eli Fresquez

**Analysis:**    \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<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**

*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**

House Bill (“HB”) 89 -- the Closed Captioning Act -- would require any person who owns or operates a television in a place of public accommodation to have closed captioning displayed on the screen. Closed captioning is a transcript of the audio portion of a TV program displayed on a screen. The bill provides definitions of terms relevant to the law. This requirement would apply to all television sets in public areas during hours generally open to the public. Exceptions to this requirement are applicable only when the television set or the program aired is technologically incapable of supporting closed captioning, multiple televisions display the same television program, or if it falls under exemptions as per federal closed captioning regulations.

The enforcement of the Closed Captioning Act falls under the Office of the Attorney General, now the New Mexico Department of Justice (NMDOJ). The bill requires NMDOJ to develop and adopt rules to establish a process through which the public can file complaints for violations of the Act. These penalties are set at a maximum of \$250 for initial violations, escalating to no more than \$500 for any subsequent violations.

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**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

HB 89 could have financial implications for the NMDOJ as it may require more resources and staff to meet its expanded civil rights obligations.

**SIGNIFICANT ISSUES**

HB 89 assigns exclusive enforcement responsibilities to the NMDOJ. Given the wide scope of this regulation, encompassing potentially thousands of businesses, this could increase the workload and resource requirements of the NMDOJ. However, under the bill, the NMDOJ is tasked with adopting rules and a complaint system aimed specifically at protecting individuals

with hearing disabilities. This responsibility could lead to an efficient management of staff time, the complaint process, and resource distribution by the NMDOJ and provide thousands of people with hearing disabilities with effective communication in places of public accommodation.

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

HB 89 would require the NMDOJ to enforce the Closed Captioning Act by adopting rules, establishing a process to receive and investigate complaints, and bring actions in district court.

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

None.

#### **TECHNICAL ISSUES**

The Bill's definition of "place of public accommodation" differs from that in the New Mexico Human Rights Act (NMSA 1978, § 28-1-2(H)) by not including "any governmental entity." This discrepancy could lead to legal confusion and inconsistent application of accessibility requirements, particularly for governmental services.

#### **OTHER SUBSTANTIVE ISSUES**

None.

#### **ALTERNATIVES**

None.

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

Status quo.

#### **AMENDMENTS**

The definition of "place of public accommodations" should be amended to align with the current definition provided in the New Mexico Human Rights Act (NMSA 1978, § 28-1-2(H)), "public accommodation" "means as any governmental entity or any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private."

Amend all enforcement language to specify that complaints and actions shall be taken against the owner or operator of a place of public accommodation, and not solely against the "place" as currently proposed.