

LFC Requester:	Austin Davidson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/17/2024
Bill No: H 89

Sponsor: Cynthia Borrego
Short Closed Captioning Act
Title: _____

Agency Name and Code 60400
Number: _____
Person Writing Nathan Gomme
Phone: (505)796-5441 **Email** Nathan.gomme@cdhh.nm.gov

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)

	FY24	FY25	FY26	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: HB 89 enacts a statewide Closed Captioning Act which will require places of Public Accommodations that display television programming to provide closed captioning, the act also requires the Attorney General’s office to enforce the Closed Captioning Act and to provide a civil penalty that does not exceed two hundred fifty dollars (\$250) for the initial violation if there is no compliance and a penalty of five hundred dollars (\$500) for each subsequent violation.

FISCAL IMPLICATIONS

While there is no mention of direct appropriations or fiscal impact present in HB 89, there can be an assumption that the enforcement of said act will likely require some costs to the Attorney General’s office. If a violation should be found there will be a civil penalty which may result in revenue generated for the state. There would be some costs associated with both educating the general public about the new complaint process and how to contact the Attorney General’s office and there will also need to be some education for the places of public accommodations of this new act from the state. It is unclear how much any of this education and the investigation of said procedure for enforcement will cost from the bill.

SIGNIFICANT ISSUES

A process for complaints needs to be established in order to allow an “aggrieved member” of the public to file a complaint. In order to mitigate inaccurate complaints, the attorney general will need to educate the community in full as to what constitutes an appropriate and accurate complaint. Once the community is aware of what constitutes a public accommodation and what steps are needed to avoid a potential penalty the most likely outcome of this bill will be that all places of public accommodations will have closed captioning feature of the television receiver turned on by default which will likely be the expected result. In the event a place of public accommodation refuses to turn on the closed captioning feature in which this case the bill presents an avenue for the constituents of this state to make, and address said location in a manner that does not require a complaint to the Department of Justice for the United States and is more effective in addressing the matter in an expedited manner. The closed captioning feature which as of 1993 is available on any device larger than 13 inches in picture size regardless of the program being analog or internet based (which was federally enacted in 2012) is in any device purchased or utilized today. As a result, there is no hardware barrier towards turning on the closed captioning feature that can be found on any device larger than 13 inches which in the case

of television receivers in places of public accommodations there are likely none.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

This bill will increase the necessary administrative oversight in order to ensure that the complaints are processed in a timely and appropriate manner. The complaint process will need to be accessible to all members of the public, specifically members of the public who may have a hearing loss and utilize relay services for phone calls should the process be done via phone call. This will not require the Attorney General's office to buy any specific equipment but will require additional training on how to handle relay calls should that be needed. Any further discussions about a complaint that may be in person will likely need accommodations ranging from writing back and forth to the use of an ASL interpreter. There will need to be considerations made to the accessibility of the process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Full scale captioning began in 1980 after several experiments with captioning throughout the 1970s. Captioning on televisions has since then been available to anyone with a Television Receiver that can decode the transmission of the service. Over time there have been several innovations to make this process streamlined and ubiquitous in all programming here in the United States. The Television Decoder Circuitry Act of 1990 and subsequent amendments which itself is an amendment of the Communications Act of 1934 is a federal law that went to effect in 1993 that states that all TV receivers with picture screens 13 inches or larger manufactured or imported for use in the United States have a built-in decoder circuitry that displays captions. These caption services also are ensured to be available even as new technologies are developed through this act. In 1996 the Telecommunications Act requires digital televisions receivers to also contain caption decoding technology. In 2010 the Twenty-First Century Communications and Video Accessibility Act requires broadcasters to provide captioning on televisions programs redistributed on the web and for HDTV decoding boxes to include a button that controls the closed captioning in the output signal. In 2012 the FCC also adopted rules establishing captioning access in programing delivered through the internet which also meant that closed captioning access is built into consumer electronics at a level that all but guarantees availability to be turned on.

All of this means that there are almost no programs or devices in the mainstream that are incapable of having captions turned on. However still today in 2024, there is a struggle when going to several places such as gyms, bars, senior centers, and other locations of getting captions turned on via request. Over 48 million Americans have a hearing loss in at least one ear across the United States that can benefit from captioning. Captions can also possibly help individuals who are in loud areas understand what is being said on the television without direct access to the

sound. There are also several other benefits to utilizing closed captioning that are widely available such as instances of information about emergencies but still there are barriers with little to no solution to getting them turned on when requested outside of a long process of getting the Department of Justice involved.

The reasons for not enabling the closed captioning at this time range from the locations simply not wanting them on, to claims that captions aren't available on their devices. The person requesting the captions and utilize the television often has no recourse or process to address this issue in that moment and there is very little that can be done via the Americans with Disabilities Act that will not take an extended period to address. As a result, several states and cities have taken steps to address this on a state level to expedite the process and enact requirements to have closed captions enabled in places of public accommodations this includes states such as Washington, cities such as New York and several other states and cities in the United States.

If we do not enact this bill the problem will continue 31 years after all televisions were required to have the capability of turning on captions and individuals with a hearing loss will continued to be denied access to programing that is widely utilized by the other individuals in the establishment. This discrimination excludes people with a hearing loss which includes older New Mexicans, Veterans, and children not because of cost, or even technology. This bill would change that by requiring all televisions receivers to have closed captions turned on.

AMENDMENTS