

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 1/13/24
Bill No: HB 89

Sponsor: Cynthia Borrego
Short Title: Closed Captioning Act

Agency Name and Code Number: Gov's Commission on Disability -
Person Writing Lisa McNiven
Phone: 505-435-9326 **Email** Lisa.mcniven@gcd.nm

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		\$150	\$150	\$300	Recurring	General Fund

(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

House Bill 89 is to create an act that requires closed captioning on at least one TV in places of public accommodations. There are 181 bars/nightclubs, 3,838 restaurants, 3 International Airports with other regional airports throughout NM, and 1 major bus terminal station. All of which have at least one TV station that could provide information to the public about hearing loss.

There are approximately 2,114,371 individuals living in New Mexico according to the US Census and of this there are 7% of the population that have a hearing loss according to the CDC. The enforcement of this bill will be provided by the State Attorney General's office that has recently been named the Department of Justice Office of New Mexico.

The State Attorney General, as stated in the bill, would enforce a civil penalty not to exceed \$250 for the initial violation and \$500 for subsequent violations. The bill states that all TV's that have different programming on from each other will have captioning available, however if they are shown the same program only one TV needs to have its captions on. There are also other exceptions where the program or receiver is not able to display captioning, or it is exempt from captioning requirements under federal law.

The Federal law exemptions states that closed captioning is not required for video programming that is: 1) locally produced by the video programming distributor; 2) Has no repeat value (is not worth showing more than one time); 3) is of local public interest; 4) is not news programming; and 5) cannot be captioned using the "electronic news room" technique of captioning as stated by the National Association for the Deaf (NAD).

All complaints will be received by the State Attorney General's office (the new name of DOJNM office) and be made available under the Inspection of Public Records.

Synopsis:

FISCAL IMPLICATIONS

This bill may impact the Attorney General's office hiring an additional person to operate this act, this is under the assumption that they are unable to assume the cost without an

additional FTE or budget support. It is recommended to consider an appropriation of 150k to support such efforts, this is based on the 2023 recommendation under HB 288.

SIGNIFICANT ISSUES

This bill does not address any process to challenge or appeal any penalties imposed, nor does it state any shared responsibilities to other regulatory agencies.

This bill goes further than the ADA with specific intent to create clarity on what is expected.

PERFORMANCE IMPLICATIONS

If this bill were to become law, it may be needed for the NM Attorney General's office (the new name of DOJNM office) to work with the NM Commission for the Deaf and Hard of Hearing to provide statewide training on this topic.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – None

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The continued frustration of individuals with hearing loss (Deaf, Hard of Hearing and Deafblind) to be excluded from public accommodation to public information addressed over the television set in which litigation may occur through the US Department of Justice in violation of the ADA Title III, which would overburden the department's response to this issue that could be solved on a state level.

AMENDMENTS