

<b>LFC Requester:</b>	<b>Gaussoin</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(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:** 2/1/2025 *Check all that apply:*  
**Bill Number:** SB 195 Original  Correction   
 Amendment  Substitute

**Sponsor:** Brandt, Sanchez, Ramos, Gallegos **Agency Name and Code** 218 AOC  
**Short Title:** Prohibiting Antisemitic Discrimination **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
n/a	n/a	n/a	n/a

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
n/a	n/a	n/a	n/a	n/a

(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>	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown

(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: The New Mexico Human Rights Act prevents discrimination against people based on the following protected classes: race, color, national origin, ancestry, religion, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity. SB 195 seeks to add to those protections to Jewish people and non-Jewish people who are perceived to be Jewish.

This is accomplished by:

- 1) adding a definition of “antisemitism” to mean “a certain perception of Jewish people, which may be expressed as hatred toward Jewish people, including rhetorical and physical manifestations that are directed toward Jewish people, or non-Jewish people who are perceived to be Jewish, and their property, or toward Jewish community institutions or religious facilities” (this definition is similar to that of the).
- 2) setting out a broad prohibition on antisemitism
- 3) provides for a person aggrieved by antisemitism to file a claim

The definition of antisemitism is similar to but not identical to the definition created by the International Holocaust Remembrance Alliance. International Holocaust Remembrance Alliance, <https://holocaustremembrance.com/resources/working-definition-antisemitism>. More than 30 states have adopted that definition in some way over the years. Until recent years, those legal definitions came primarily through resolutions or executive orders rather than statutes.

#### **FISCAL IMPLICATIONS**

Including antisemitism discrimination in the Human Rights Act may increase litigation under the Human Rights Act and may lead to more appeals from Human Rights Commission proceedings in district courts pursuant to NMSA 28-1-13. However, there are a number of provisions for religion, race, and national origin that are currently enforced.

#### **SIGNIFICANT ISSUES**

- 1) Potentially vague definition. Jewish identity has been defined as an ethnicity, a nation, a culture, a race, and/or a religion. Not all ethnic Jewish people practice the religion. Not all practitioners of the religion are ethnic Jewish people. Where the bill just uses the phrase “Jewish people” it may lead to confusion as to which of the Jewish identities are included. (To note, the U.S. Supreme Court has held that Jewish people are a “distinct race” such that they can make a claim for racial discrimination under federal law. *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615 (1987)).
- 2) Potentially already prohibited.
  - a. Human Rights Act. The Human Rights Act current prohibits discrimination based on “race...religion...national origin...[and] ancestry.” See NMSA 1978, § 28-1-7. It could be argued that those groups and identities already include Jewish people, in all the different ways that term identifies a person, and that the addition of a specific definition would be unnecessary.

- b. Difficulty with Statutory Construction. If the conduct is already prohibited singling one group out for specific protection creates a challenge for judges interpreting the statute. It is a rule of statutory construction that a more specific statute controls over a more general one. Reviewing courts would then be in a position to have to determine what special consideration should be given to the specific group identified versus the more broadly defined general classes of people.
- 3) Other interest groups desiring specific definitions. Given that Jewish people may already be protected from discrimination by the current Human Rights Act, other interest groups may feel that it is necessary to advocate for their own specific prohibition or risk be excluded from the protections envisioned.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type
- This bill may have an impact on the Judiciary's performance measures without the additional resources to comply with the bill.

## **ADMINISTRATIVE IMPLICATIONS**

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

While more specific the bill provides a more specific definition, the discriminatory conduct may already be prohibited under the current Human Rights Act which prohibits discrimination based on "race...religion...national origin...[and] ancestry." *See* NMSA 1978, § 28-1-7.

This definition has been implemented across state agencies in New Mexico via Executive Order 2022-118. (<https://www.governor.state.nm.us/wp-content/uploads/2022/08/Executive-Order-2022-118.pdf>)

## **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

- 1) Statistics: According to the Anti-Defamation League there were 31 reports of antisemitism in New Mexico (24 in Albuquerque alone) in 2023 with 8 in 2022 and 6 in 2021. See <https://www.adl.org/resources/report/audit-antisemitic-incidents-2023>. In the United States as a whole there were 8,873 such incidents reported in 2023 and 3,698 in 2022.
- 2) First Amendment: As with all prohibitions against discrimination, not all manifestations of antisemitism are illegal. Due to the protections of the First Amendment, sometimes instances of antisemitic speech do not cross the line into actionable harassment or other forms of prohibited conduct.
- 3) Harm to other groups?: In recent years there have been concerns that definitions of antisemitism will be used to intimidate other marginalized groups or advance positions relating to the political situations in the Middle East. See, e.g.

<https://www.pbs.org/wnet/exploring-hate/2024/05/03/definition-of-antisemitism-being-weaponized/> and <https://www.pbs.org/newshour/politics/house-passes-bill-to-expand-definition-of-antisemitism-amid-growing-campus-protests-over-gaza-war>.

The American Civil Liberties Union is consistently against similar efforts. See, e.g. <https://www.aclu.org/documents/aclu-urges-congress-to-oppose-anti-semitism-awareness-act>

## **ALTERNATIVES**

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

## **AMENDMENTS**