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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Brandt/Sanchez/Ramos/Gallegos **ORIGINAL DATE** 03/11/2025

**BILL**

**SHORT TITLE** Prohibiting Antisemitic Discrimination **NUMBER** Senate Bill 195

**ANALYST** Gygi

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>AOC</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	<b>General Fund</b>
<b>NMAG</b>	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	<b>General Fund</b>
<b>WSD</b>	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	<b>General Fund</b>

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Administrative Office of the Courts (AOC)  
 Attorney General (NMAG)  
 Workforce Solutions Department (WSD)

## SUMMARY

### Synopsis of Senate Bill 195

Senate Bill 195 (SB195) would add a new section in the Human Rights Act (Section 28-1-7 NMSA 1978) to include prohibitions on antisemitic discriminatory acts or communication. The entities prohibited from this behavior include individuals, employers, public officers, and public sector entities. Individuals who qualify for protection include (1) Jewish people, (2) those perceived to be Jewish, (3) their property, or (4) towards Jewish institutions and religious facilities. Individuals who claim to have received discriminatory action may file a claim for review in accordance with the Human Rights Act.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The Workforce Solutions Department (WSD) anticipates no additional fiscal impact if SB195 is enacted because it already enforces applicable Human Rights Act prohibitions. The

Administrative Office of the Courts (AOC) reports its caseload could possibly increase but any additional costs are assumed to be minimal. The Attorney General (NMAG) anticipates no fiscal impact.

## SIGNIFICANT ISSUES

SB195 would prohibit antisemitic discrimination through action or communication. AOC notes there were 31 reports of antisemitism in New Mexico (24 in Albuquerque alone) in 2023, eight in 2022 and six in 2021.<sup>1</sup> In the United States as a whole there were 8,873 such incidents reported in 2023 and 3,698 in 2022.

All agencies submitting analysis point out there is ambiguity regarding the meaning of “Jewish people” and who/what is protected. For example, AOC states:

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.

AOC and NMAG anticipate challenges for enforcement because of this ambiguity as well as a potential conflict due to the legal principle of “statutory construction.” As AOC explains:

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.

AOC also has concerns about conflicts with First Amendment Rights:

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.

AOC further notes that legislation such as SB195 could harm other groups and set a precedent for other groups to request special protections under the Human Rights Act:

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

AOC indicates increased caseloads without additional resources potentially may impact the following performance measures:

- Cases disposed of as a percent of cases filed, and
- Percent change in case filings by case type.

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<sup>1</sup> See Anti-Defamation League at <https://www.adl.org/resources/report/audit-antisemitic-incidents-2023>.

## TECHNICAL ISSUES

NMAG notes the term “discrimination” does not match the definition of “discriminatory practice” used in the Human Rights Act (HRA).

The HRA’s enumerated unlawful discriminatory practices contain both the prohibited action (ex., a refusal to hire) as well as the protected classification (ex. “because of race”). SB195 appears to operate on the prohibited actions but not the protected classification. Combining the two terms would require a plaintiff to prove that, for example, a defendant failed to hire the plaintiff because of antisemitism as well as his or her race

To avoid some of the issues noted above, SB195 could retain its definition of antisemitism and, instead of including the language in section 1(B), amend the existing protected classifications in the unlawful discriminatory practices definitions of the HRA to include “on the basis of antisemitism.”

## ALTERNATIVES

WSD notes that:

Executive Order 2022-118<sup>2</sup> includes a more sophisticated approach to defining anti-Semitism in the context of state agency actions, and it does not create potential conflicts with the Human Rights Act.

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<sup>2</sup> <https://www.governor.state.nm.us/wp-content/uploads/2022/08/Executive-Order-2022-118.pdf>