

LFC Requester:	Helen Gaussoin
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 01/31/2025

Check all that apply:

Bill Number: SB 195

Original Correction
Amendment Substitute

Sponsor: Sens. Craig W. Brandt; David
M. Gallegos; Gabriel Ramos;
Joshua A. Sanchez

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

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Short Title: Prohibiting Antisemitic
Discrimination

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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
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
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
Total	N/A	N/A	N/A	N/A	N/A	N/A

(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

Synopsis:

This bill makes it unlawful under the Human Rights Act to engage in antisemitism.

Section 1(A) defines antisemitism as “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 appears to track the International Holocaust Remembrance Alliance’s Working Definition of Antisemitism.

Section 1(B) prohibits a person, employer, labor organization, employment agency, public accommodation, public body, or any officer, employee, or contractor of a public body from engaging in “antisemitic discrimination.” A person who suffered antisemitic discrimination may bring a claim under the Human Rights Act’s existing framework.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB195 does not define the word “discrimination” in the term “antisemitic discrimination.” The Human Rights Act (HRA) prohibits a long list of defined “unlawful discriminatory practice[s],” such as taking an adverse employment action against an employee on the basis of “race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or military status, or, if the employer has fifty or more employees, spousal affiliation.” Although it is likely that the drafters intended “discrimination” to mean the same thing as “unlawful discriminatory practice” as defined by the HRA, the two terms do not match. 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.

SB195 proposed definition of antisemitism differs from the other protected identities in the HRA. For example, to prove that an adverse employment action was made on the basis of sex, a plaintiff does not have to prove that the defendant acted on the basis of hatred towards women or men; all that is required is a finding that the plaintiff's sex was a "motivating factor." *See Nava v. City of Santa Fe*, 2004-NMSC-039, ¶ 9, 136 N.M. 647. In contrast, a plaintiff under SB195 would have to prove that the defendant acted based "on a certain perception of Jewish people, which may be expressed as a hatred toward Jewish people." This could have the unintended effect of increasing the burden on such plaintiffs.

The HRA currently prohibits some forms of antisemitism by prohibiting adverse conduct on the basis of religion, ethnicity, and ancestry. It is unclear how the new definition of antisemitism under SB195 would interact with these existing theories.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

See amendments.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

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."