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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Borrego</u>	<b>LAST UPDATED</b> <u>2/3/2025</u>
	<b>ORIGINAL DATE</b> <u>1/24/2025</u>
<b>SHORT TITLE</b> <u>Closed Captioning Act</u>	<b>BILL NUMBER</b> <u>House Bill 49/aHJC</u>
	<b>ANALYST</b> <u>Hernandez</u>

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>NMAG</b>	No fiscal impact	\$150.0	\$150.0	\$300.0	Recurring	General Fund
<b>Total</b>	No fiscal impact	\$150.0	\$150.0	\$300.0	Recurring	General Fund

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

### Sources of Information

LFC Files

#### Agency Analysis Received From

New Mexico Attorney General (NMAG)  
 Governor’s Commission on Disability  
 Commission for Deaf and Hard-of-Hearing Persons (CDHH)  
 Department of Cultural Affairs (DCA)

#### Agency Analysis was Solicited but Not Received From

Developmental Disabilities Council (NMDDC)

## SUMMARY

### Synopsis of HJC Amendment to House Bill 49

The House Judiciary Committee amendments to House Bill 49 (1) change phrasing in the unamended bill from “a person that owns or manages a place of public accommodation” to “a business that is a place of public accommodation” and (2) change the word “and” or “or” to allow for two possible exemptions instead of one. The first possible exemption is if a television program being displayed is exempt from closed captioning requirements under federal law. The second possible exemption is if multiple television receivers are displaying the same television program.

### Synopsis of House Bill 49

House Bill 49 (HB49) creates the Closed Captioning Act for the purpose of requiring places of public accommodation, defined as a place that is open to the public and where commerce is carried out, such as hotels, restaurants, theaters, or department stores, to provide closed

captioning on televisions. This bill requires a person that owns or manages a place of public accommodation to activate closed captioning on all television receivers that are turned on and operating in public areas during regular hours with some exceptions. HB49 requires enforcement from the New Mexico Attorney General’s Office (NMAG) and establishes a complaint process where members of the public may file complaints against a place of public accommodation for violating the terms of HB49. HB49 provides a civil penalty not to exceed \$250 for an initial violation and \$500 for subsequent violations; all revenue from the civil penalties would go to the general fund.

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**

There are no changes in fiscal implications based on the HJC amendment to HB49.

NMAG did not submit fiscal analysis for HB49 and stated it is “unclear how many, if any additional Full-Time Equivalents (FTEs) may be needed in order to monitor complaints, conduct investigations across the state, and issue civil penalties.” However, when a nearly identical bill (HB288) was introduced in the 2023 legislative session, NMAG analysis stated they would need an additional two FTE, one coordinator and one assistant, which would have a total operating budget impact of \$150 thousand.

## **SIGNIFICANT ISSUES**

HB49 makes NMAG solely responsible for enforcing the provisions laid out in the bill. According to previous LFC analysis, NMAG, and the Governor’s Commission on Disability, HB49 does not clarify the investigations process or provide any detail on any shared responsibilities to other regulatory agencies—which may lead to difficulties around enforcement. NMAG states that placing the entire enforcement and compliance process under the agency may create a significant enforcement challenge, as the “number of businesses subject to HB49 is likely tens of thousands.”

Previous LFC analysis indicates that the Alcohol and Beverage Control Division (ABC) of the Regulation and Licensing Division handles establishments that have been licensed with televisions visible to patrons and will therefore need to comply with the requirements established within the bill. However, HB49 does not authorize ABC to enforce the Closed Captioning Act.

## **TECHNICAL ISSUES**

The first amendment reads as “a business that is a place of public accommodation” and should read as “a business that is *in* a place of public accommodation.”

NMAG notes:

HB49 contains a lengthy definition of “place of public accommodation,” which includes a non-exhaustive list of businesses to be considered “public accommodations” under the Act. The definition used in HB49 closely mirrors the definition of “public accommodation” in the federal Americans with Disabilities Act, 42 U.S.C. § 12181(7).

However, other New Mexico laws have uniformly defined the term “public accommodation” as “any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private”. NMSA 1978, § 28-1-2(H) (New Mexico Human Rights Act) and 28-24-2(C) (Gender-Free Bathrooms Act). The use of a different definition of the term in the Closed Captioning Act may lead to confusion or possible litigation about whether certain businesses are considered “public accommodations” under some laws but not others.

The Department of Cultural Affairs stated that the “definition of closed captioning in Section 2 does not specify which language(s) are required.”

AEH/hj/SL2/hg/rl