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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

*Click all that apply:*

Original  Amendment   
Correction  Substitute

Date 2024-01-24

Bill No: HB225

Sponsor: Hernandez, Joshua N.  
Short CREATE CRIME OF  
Title: HAZING

Agency Name  
and Code NMHED  
Number: \_\_\_\_\_

Person Writing Chisholm, Mark  
Phone: 5052716754 Email mark.chisholm@hed.n

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
N/A	\$500.00	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	N/A	N/A	\$200.00	\$200.00	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Relates to 2024 SB55

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

HB225 is designated as priority legislation for the Executive Branch.

HB225 creates the misdemeanor crime of hazing and the fourth degree felony crime of aggravated hazing (defined below) in both public and private K-12 schools and post-secondary education institutions. HB225 also directs the New Mexico Higher Education Department (NMHED) to create and staff an online reporting portal for incidents. It also requires all educational entities to report annually on hazing incidents, K-12 to the New Mexico Public Education Department (NMPED) and post-secondary education to NMHED. The bill appropriates five hundred thousand dollars (\$500,000) from the General Fund to NMHED for use in FY25 to implement the online reporting portal.

"Hazing? consists of an act, intentionally or recklessly committed against a student or a prospective student of an educational entity: (1) in connection with initiation into, affiliation with, holding office in or maintaining membership in any student organization, student body, or student athletic team or club, regardless of whether the organization is officially recognized, sanctioned, or authorized by an educational entity; and (2) when the act creates a substantial risk of physical or mental injury to the student or prospective student. Hazing includes any act committed as part of a student's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, club, or living group or any pastime or amusement engaged in with respect to such an organization, athletic team, club, or living group that causes

or is likely to cause bodily danger, physical harm, or serious psychological or emotional harm to a student or other person attending an educational entity, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance that subjects the person to risk of such harm, regardless of the student's willingness to participate. It is a misdemeanor offense.

A teacher, professor, coach or other staff member of an educational entity who knew or reasonably should have known of the hazing and did not report the incident or incidents of hazing is guilty of a misdemeanor. A failure to report shall constitute good and just cause for suspension or revocation of any educator licensure under the School Personnel Act.

"Aggravated hazing" consists of an unlawful act, intentionally committed against a person who is a student or prospective student of an educational entity: (1) in connection with initiation into, affiliation with, holding office in, or maintaining membership in any student organization, student body, or student athletic team or club, regardless of whether the student organization, student body, or student athletic team or club is officially recognized, sanctioned, or authorized by an educational entity; and (2) when such act causes painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body of the student or prospective student or causes substantial mental harm to the student or prospective student. It is a fourth degree felony offense.

If the perpetrator of the act of hazing or aggravated hazing is under the age of 18, the perpetrator shall be considered for services under the Delinquency Act.

The crime of hazing does not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals that is officially sanctioned by an educational entity.

It is not a defense in an action under this section if the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

"Educational entity" means a: (1) public or private school serving kindergarten through twelfth grade students; or (2) public or private post-secondary educational institution.

HB225 calls for NMHED to create, maintain, and advertise an online reporting portal that will be staffed by a full-time director and a part-time personnel member. Staff is to work with the Department of Public Safety and local law enforcement to report hazing crimes. Aggravated hazing shall also be reported to the Office of Civil Rights of the United States Department of Education. Complaints and information are exempt from the Inspection of Public Records Act.

All educational entities are also required to report annually regarding hazing. Public and private K-12 schools report to NMPED the information required by that department. Similarly, public and private post-secondary education institutions report annually to NMHED the information required by NMHED.

All public or private post-secondary educational institutions shall provide hazing prevention education to their employees annually or within the first semester of employment for new employees.

HB225 appropriates five hundred thousand dollars (\$500,000) from the General Fund to NMHED for expenditure in FY25. Any unexpended or unencumbered balance remaining at the end of FY25 reverts to the General Fund.

## FISCAL IMPLICATIONS

HB225 appropriates five hundred thousand dollars (\$500,000) to the New Mexico Higher Education Department (NMHED) for expenditure in FY25 to develop the online portal and to hire a director and a part-time staff member to oversee the portal. The Executive recommendation also recommends five hundred thousand dollars (\$500,000) for this project for FY25.

NMHED estimates that salary and benefits for 1.5 FTE (a director and a half-time management analyst) at about one hundred eighty thousand dollars (\$180,000) per year. NMHED also estimates an ongoing maintenance and licensing expense of fifteen thousand dollars (\$15,000) per year to maintain the portal. This results in a yearly expense of one hundred ninety-five thousand dollars (\$195,000). If an 800-line service were added to the online portal so that individuals could call-in complaints, the cost, after initial setup, would be \$30 per call, for an additional annual cost estimate of \$3,000 to \$9,000 per year, assuming 100 to 300 calls per year. This would bring the annual recurring cost to approximately two hundred thousand dollars (\$200,000) per year.

The additional training required by institutions is an unfunded expense. There will also be an expense for each institution to pull together and report on all hazing incidents over the past year. NMHED does not have an estimate of these additional expenses for institutions.

Many private post-secondary education institutions are quite small, with an adult population and a total enrollment less than 200. Imposing state-mandated reporting requirements on small private institutions, which don't have any of the social or athletic events that are often subject to hazing incidents, may be an unnecessary burden.

## SIGNIFICANT ISSUES

New Mexico is one of the few states that does not have legal sanctions against hazing. This bill would create specific legal penalties for hazing.

Most institutions in New Mexico already have anti-hazing policies in their codes of conduct for students and employees. This bill would codify these practices and ensure that students and staff know of those policies and have a safe and easy way to report violations. The biggest change for institutions may be the requirement to submit annual reports and to provide training for all staff.

The inclusion of private post-secondary education institutions could also be a burden for up to 96% of the private institutions authorized to operate in New Mexico. Most of them do not have athletic teams, social student organizations, or on-campus dormitories, and many have an annual enrollment count less than 200. Exemptions for these schools would reduce an unnecessary burden.

A few private institutions, such as St. John's College, do have a larger enrollment, athletic teams, and social student organizations, and as is also the case for most public post-secondary education institutions, they already have anti-hazing rules in their codes of conduct.

The online reporting portal and the advertising of its availability is the responsibility of the New Mexico Higher Education Department (NMHED). Reports of hazing incidents for public and private K-12 institutions goes to the New Mexico Public Education Department (NMPED). It would be appropriate for NMHED to collaborate with NMPED in designing and advertising the online portal so that it is available to and appropriate for use by students, parents, and staff from K-12 institutions as well as meeting the needs of post-secondary education institutions.

#### PERFORMANCE IMPLICATIONS

There are no specific performance measures in HB225 other than the required annual reports from institutions and schools. If enacted, the New Mexico Higher Education Department (NMHED) would work with the New Mexico Public Education Department (NMPED) to compile a statewide annual report of reported hazing incidents. Goals could also be set to reduce the annual number of hazing incidents in New Mexico educational institutions.

#### ADMINISTRATIVE IMPLICATIONS

Post-secondary education institutions would need to comply with this new law. They would have to examine their existing anti-hazing guidelines to ensure they comply with the new Act, institute new training, and prepare annual reports.

The New Mexico Higher Education Department (NMHED) and New Mexico Public Education Department (NMPED) would need to codify the required information to be included in annual reports, likely through the adoption of new New Mexico Administrative Code (NMAC) rules.

#### CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB225 relates to 2024 SB55.

A bill with a similar intent was introduced in 2021 (HB27) but it did not move all the way through the process to become law.

#### TECHNICAL ISSUES

The collection of confidential hazing incidents, the reporting to local and statewide agencies, and the maintenance of the confidentiality of all involved parties would require careful work and review.

#### OTHER SUBSTANTIVE ISSUES

N/A

#### ALTERNATIVES

For post-secondary education institutions, most, if not all, already have anti-hazing rules in place in their codes of conduct. Institutions could be asked to review their current guidelines and to make changes if necessary. They could also be required to ensure that an internal reporting mechanism were in place and that all students, staff, and faculty were aware of the policy and what their responsibilities were to prevent hazing and to report violations if they believe they were occurring. A report to the New Mexico Higher Education Department (NMHED) could be required, with updates on a specified cycle (perhaps every three to five years).

A similar process could be followed for public and private K-12 institutions under the authority of the New Mexico Public Education Department (NMPED).

Passing a law to codify clear legal penalties for hazing would also be helpful since New Mexico is one of the few states without such a law.

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

If SB225 does not pass, there would not be a law in New Mexico that listed penalties for hazing, and education institutions would continue to enforce their existing anti-hazing policies.

#### AMENDMENTS

N/A