

<b>LFC Requester:</b>	<b>Connor Jorgensen</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

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

**AgencyAnalysis.nmlegis.gov**

*{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}*

*Check all that apply:*

**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/23/2024

**Bill No:** SB 55

**Sponsor:** Senator Harold Pope  
**Short Title:** Anti-Hazing Act

**Agency Name and Code**    University of New Mexico-952  
**Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

**Synopsis:** Senate Bill 55 enacts the “Anti-Hazing Act”. SB 55 creates and defines the act of “hazing” and prescribes the following criminal penalties:

- a misdemeanor to anyone who is found guilty of committing hazing.
- a fourth-degree felony to anyone who is found guilty of hazing that results in substantial bodily harm to another.

Additionally, any student organization, association, or student living group that permits hazing is strictly liable for damages caused to a person or property resulting from hazing. Further, a student organization, association, or student living group that knowingly permits hazing to be conducted by its members shall forfeit any official recognition or approval granted by a public or private post-secondary educational institution.

SB 55 requires that every public and private post-secondary educational institution shall

prohibit in its code of conduct hazing off- and on-campus; additionally, every public and private post-secondary educational institution, beginning with the 2024 fall term, shall provide students with an educational program on hazing and the dangers or and prohibition on hazing. Beginning with the 2024-2015 academic year, a public and private post-secondary educational institution shall maintain and publicly report actual findings of violations by any student organization, athletic team or living group of the public and private post-secondary educational institution's code of conduct, anti-hazing policies or state, or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault. Furthermore, SB 55 requires a public and private post-secondary educational institution, beginning in the 2024 fall term, to provide hazing prevention education to employees, including student employees. SB 55 provides requirements for social sororities and fraternities, which include notification to the public and private post-secondary educational institution officials of any known violations within their organizations of hazing or any other conduct that involves the element of hazing.

## **FISCAL IMPLICATIONS**

### *UNM Police Department-*

Since there is no appropriation that accompanies this bill, there will be a cost to the post-secondary educational institutions to administer the program, which also includes costs related to staff time, materials, and training. There will also be costs associated with any institution that employees law enforcement for administration, training, and tracking of such incidents.

### *UNM Office of Equal Opportunity-*

Fiscal impact to post-secondary educational institutions includes staff time and labor for providing annual training to students and employees. This cost may be significant in larger post-secondary educational institutions such as UNM, which has 26,000 students. The number of employees that must be trained is not currently clear, as only employees with direct student involvement or "in authority positions" must be trained. The cost of training may vary depending on whether training is provided live or in-person.

There may also be fiscal impact for post-secondary educational institutions with a university law enforcement. Since hazing could be considered either a misdemeanor or a felony pursuant to SB 55, additional training on hazing investigations/protocol would need to be provided to law enforcement.

### *UNM Fraternity & Sorority Life Office-*

No appropriation accompanies this bill to pay for training or administrative costs.

Fiscal impact to post-secondary educational institutions could be significant. To implement effective training and guarantee quality, the state should contract with a third-party for creation of this training. This will guarantee consistency and provide the state an opportunity to have oversight of the training each student will receive. Relying on individual staff or faculty to create and facilitate this program for every student at a post-secondary educational institution at current staffing levels is unrealistic. Staff and faculty training would also need to be consistent. Additionally, a program, delivered through electronic means would provide more accurate

assessment data. For context, AliveTek which runs prevent.Zone and the hazing prevention network could provide training to all UNM students, staff, and faculty. They are the leading digital educational provider on the topic of hazing prevention, and they could be an ideal partner for UNM. Based on the number of users, an estimated cost to train all UNM students, staff, and faculty through this program would cost an estimated \$15,250 per annum.

There may also be financial impact from an investigatory standpoint. Depending on the current burden of the staff assigned to investigate, these requirements may necessitate additional staff in the Conduct office. Training for law enforcement will also be necessary and could be complex based on the different levels of punishment through this bill.

## **SIGNIFICANT ISSUES**

### *UNM Police Department-*

Clarification of terms/definitions within the bill specific to “credible,” “living group,” “pastime or amusement,” and “gratuitous hazing.”

Criminal penalties for serious psychological or emotional harm were not included in the bill. Current New Mexico State Statutes include Assault, Battery, and Aggravated Battery, which could also relate to the criminal penalties of this bill.

Clarification of the components that define hazing may be helpful as noted in [stophazing.org](http://stophazing.org), which includes the following:

1. It occurs in a group context;
2. Humiliating, degrading, or endangering behavior; or
3. Happens regardless of an individual’s willingness to participate.

Clarification and/or differentiation of hazing versus bullying if the act is being conducted by an individual rather than a group.

Clarification of “participants” in hazing. Could a bystander or a witness be sanctioned and/or criminally charged the same as a perpetrator, especially in instances where they do not report the incident?

Concern with quality of the program if it is to be developed and begin the training by the Fall of 2024, when SB 55 could potentially be enacted in by March 6<sup>th</sup>, 2024.

It should also be noted that New Mexico enacted anti-bullying laws but has yet to enact anti-hazing laws.

### *UNM Office of University Counsel-*

From a legal liability standpoint, UNM is concerned with the following language from SB 55:

“Additionally, any student organization, association, or student living group that permits hazing is strictly liable for damages caused to a person or property resulting from hazing.”

The concern is that, except for national fraternities that are separately incorporated and carry liability insurance, other student organizations, associations or living groups or athletic teams are not separate from the University. Thus, if liability is found for damages to a person, the University will have to pay such damages, and this will result in a major hit to the public liability fund. It is uncertain that the Risk Management Division (RMD) will disclaim these types of damages in the future or require universities to contribute to settlements as RMD does in some other claim areas. Additionally, damages do not appear to be capped in SB 55. Further, since UNM has a more separate relationship to fraternities and sororities as they are incorporated as their own entities, it may be more complicated to mandate or coordinate the training and reporting requirements discussed in SB 55. There would need to be an evolution from UNM's current relationships in how UNM contracts with these organizations in order to achieve the reporting and training requirements. The changes may have personnel, logistical, or financial implications.

#### *UNM Office of Equal Opportunity-*

Individuals who have "reasonable cause" to believe hazing has occurred or may occur, must report. (Section 2(B)) Reasonable cause is defined as witnessing hazing or "receiving a credible written or oral report" of hazing. It is unclear what constitutes a "credible" written or oral hazing report. It may be clearer to mandate that all hazing be reported and then evaluated by the investigative or responsible entity within the post-secondary educational institution.

SB 55 refers throughout to a student "living group." It is likely that this definition includes sororities and fraternities, but it is unclear if the definition also includes dorms and even off campus apartments where students live. Adding a definition of living group to this Act will clarify.

SB 55 requires that post-secondary educational institutions make public reports (Section 5) of findings of hazing violations and violations of offenses of alcohol, drugs, and sexual and physical assault. SB 55 states that the report shall include findings against a student organization, athletic team or living group, but does not indicate that the report shall include findings against an individual. Since code of conduct, sexual assault and other findings are made against individuals, it is not clear if SB 55 is only interested in findings against student organizations, athletic teams, and living groups that knew individual members were engaging in hazing, alcohol/drug offenses, or sexual assault.

#### *UNM Athletics-*

UNM Athletics takes hazing extremely seriously. At the beginning of each school year UNM's student-athletes sign off on the athletics department's hazing policy in the compliance paperwork that is required to sign before participating in practice. The compliance team meets in person with every team at the beginning of the school year for the mandatory compliance meeting. The mandatory compliance meeting addresses hazing, what it may look like, including examples, states the consequences of hazing, and provides resources for anyone feeling like that may be experiencing hazing. The compliance team sends an email at the beginning of each school year to all coaches about our hazing policy. The compliance team sends a list of resources at the beginning of each month to all student-athletes with different resources they have for reporting any Title IX concerns. The Title IX Coordinator meets at the beginning of the year with all coaching staffs individually and discusses hazing with them as well as provides Title IX resources for UNM's coaches. Student-athletes attend a mandatory training at least once a year

to talk about Title IX. In the Fall, all teams went through training with the LoboRespect Advocacy center and attended a training by Protection for All Consulting Group.

### *UNM Fraternity & Sorority Life Office-*

As written, the SB 55 only applies to post-secondary educational institutions. There have been multiple cases of hazing in secondary schools in the state and all educational institutions should be included. Hazing also occurs in organizations distinct from educational institutions, for example in Boy Scouts, street gangs, church groups, and non-school associated athletic teams.

SB 55 vaguely defines the post-secondary educational institution employees (Section 2A) who must complete the training. Using an already defined criteria, for example Campus Safety Authorities, would reduce the burden of post-secondary educational institutions defining who the training requirement applies to.

The definition of hazing in the bill (Section 3A) refers only to “a person’s recruitment, initiation, pledging, admission into or affiliation with...” a defined organization. Hazing occurs at all points of membership and should not be limited to the start of a person’s membership. It also refers to “serious psychological or emotional harm” which isn’t quantifiable. Damage shouldn’t have to be considered serious to if it causes any harm. Lastly, this section of the bill seems to limit the definition of hazing to consumption specific activities.

Would recommend removing the “student” connection with hazing and apply it to all persons (Section 3, A&D). Alumni, and other non-students, have been connected with hazing activities around the country. Removing the “student” connection would also cover community hazing within organizations.

There is quite a bit of ambiguity in Section 3 that could lead to uneven application of the law at different post-secondary educational institutions. Sections 3C and D does not clearly differentiate between what charges would call for a misdemeanor charge versus a felony. The felony language only covers substantial bodily harm, but substantial mental or emotional harm can be just as impactful for a victim. Section 3E does not define liability for athletics teams, only student organizations, associations, and living groups. Section 3F allows the post-secondary educational institution to determine a timeline for loss of state-based aid. This should be standardized and clarified in the law and not be up to a post-secondary educational institution discretion for fair and even application.

Section 3G calls for the loss of recognition for any organization, association, or living group that knowingly permits hazing. While well intentioned, at face value removes due process for student organizations. While not constitutionally protected as organizations, post-secondary educational institutions still have an obligation to investigate and make an appropriate decision based on the facts of the investigation. There are also no recognition consequences for athletic organizations. While governed by the NCAA, they should still be represented equally as all recent cases of hazing publicized in the state were related to state athletic teams.

Section 4B dictates that hazing prevention education be offered as a part of new student orientation. Given the amount of information already being consumed by students during orientation, adding an important, mandated training could dilute its value. Given the requirement for staff and faculty, this training could be included in annually required trainings already required at UNM.

The hazing prevention committee is crucial to success on-campus though as written the makeup of the committee would be ineffective. While student voices should be heard and have a voice on the committee, 50% of the committee changing every year would hurt the long-term effectiveness of the work the committee would be doing. It also seems that there may be a way to better define staff and faculty requirements. Including specific roles from the post-secondary educational institution would help select the right members for the committee. For example, the committee should have representatives from athletics, fraternity/sorority life, the conduct office, and residence life. If these can be better defined the committee could add great value.

The inclusion of the word “social” in Section 7 does not take into consideration non-social fraternities such as business, engineering, or other academically linked fraternities and sororities.

Section 7A states a fraternity or sorority must notify the post-secondary educational institution before chartering. This implies an organization can do so without seeking approval from the post-secondary educational institution. For example, UNM currently has a fraternity operating without UNM recognition/charter status. Their national organization recognizes the group, but UNM does not have any oversight of the group because they have chosen not to pursue official UNM charter/recognition status. They do not have the privileges or advisement given to recognized organizations, but they continue to recruit members on campus and do not operate under UNM policies. Given the trends of fraternity and sorority expansion in the country, this should include a requirement for organizations to be recognized organizations if they recruit on campus.

Section 7C requires local chapter websites to have a long list of items that will be very difficult to maintain. These website disclosures would be better served on the academic institution’s website (such as the fraternity and sorority department’s website). This is the location that most students go for recruitment information and parents go to for safety information.

## **PERFORMANCE IMPLICATIONS**

### *UNM Police Department-*

Post-secondary educational institutions would be required to also be diligent in the reporting and review of off-campus incidents as well.

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

### *UNM Police Department-*

The 118<sup>th</sup> Congress introduced the “Stop Campus Hazing Act.” The Act will improve hazing reporting by requiring colleges to include hazing incidents in their annual security report (inclusion of hazing incidents as a Clery Act crime). Prevent hazing by establishing campus-wide, research-based hazing education and prevention programs, and help students and their parents make informed decisions about joining organizations on campus by requiring post-secondary educational institutions to publish on their websites the post-secondary educational institution’s hazing prevention policies and the organizations that have violated them.

### *UNM Office of Equal Opportunity-*

No conflict. Post-secondary educational institutions currently have federal and state obligations to prevent and investigate hazing that is based on a protected status (gender, sexual harassment,

sexual assault, race, age etc.)

*UNM Fraternity & Sorority Life Office-*

Current federal regulations require the reporting of certain crimes to the public already, SB 55 would enhance that requirement. New Mexico is currently one of only six states in the country with no law related to hazing. New Mexico has twice as many post-secondary educational institutions as four of these states (Wyoming, South Dakota, Alaska, and Hawaii) and at least 6 more than the fifth (Montana.)

The Stop Campus Hazing Act was presented to the 118<sup>th</sup> US Congress to standardize hazing laws across the country.

## **OTHER SUBSTANTIVE ISSUES**

*UNM Fraternity & Sorority Life Office-*

This bill also does not contain any language requiring anonymous reporting methods for administrative bodies. The option to report hazing anonymously allows post-secondary educational institutions to curtail any potential hazing prior to it reaching a bodily harm level in many cases.

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

Each post-secondary educational institution will continue to address incidents of hazing in their own way, which would most likely be inconsistent state-wide. Basically, lack of state-wide standards to address incidents of hazing or suspected incidents of hazing. According to on-line media report, college campuses' safeguards are "uneven". Additionally, New Mexico will continue to be one of only six states with no law defining hazing as a crime.