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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Sen. Pope/Rep. Herndon</u>	<b>LAST UPDATED</b> <u>2/2/24</u>
	<b>ORIGINAL DATE</b> <u>1/23/24</u>
<b>SHORT TITLE</b> <u>Anti-Hazing Act</u>	<b>BILL NUMBER</b> <u>Senate Bill 55/aSEC</u>
	<b>ANALYST</b> <u>Daly</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
ENMU		\$250.0	\$250.0	\$500.0	Recurring	ENMU I&G
County Jails		At least \$38.4	At least \$38.4	At least \$76.8	Recurring	County General Funds
<b>Total</b>		At least \$288.4	At least \$288.4	At least \$576.8	Recurring	

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

### Sources of Information

LFC Files

Agency Analysis Received From  
 Higher Education Department (HED)  
 New Mexico Attorney General (NMAG)  
 Eastern New Mexico University (ENMU)  
 New Mexico Independent Community Colleges (NMICC)  
 University of New Mexico (UNM)

## SUMMARY

### Synopsis of SEC Amendment to Senate Bill 55

The Senate Education Committee amendment to Senate Bill 55 deletes the provision making hazing that results in substantial bodily harm a fourth degree felony. It also makes the required public report of actual findings of violations not subject to the Inspection of Public Records Act (IPRA).

It is unclear how a report of an actual finding of a violation can be made public while not being subject to IPRA.

### Synopsis of Original Senate Bill 55

Senate Bill 55 (SB55) enacts the Anti-Hazing Act to prohibit and penalize the hazing of any

student at a public or private post-secondary educational institution by a student organization, association, athletic team, or student living group. The Act defines hazing as:

Any act committed as part of a person's recruitment, initiation, pledging, admission into or affiliation with a student organization, athletic team or living group or any pastime or amusement engaged in with respect to such an organization, athletic team or living group that causes, or is likely to cause, bodily danger or physical harm or serious psychological or emotional harm to a student or other person attending a public or private post-secondary educational institution, including causing, directing coercing or forcing a person to consume food, liquid, alcohol drug or other substance that subjects the person to risk of such harm, regardless of the person's willingness to participate.

Customary athletic events or similar activities, including practice, training, conditioning, and eligibility requirements are exempted.

Hazing is classified as a misdemeanor offense. In addition, a student who participates in hazing forfeits any state-funded grants, scholarships, or awards for a period of time determined by the institution.

Educational institutions must include anti-hazing policies in their codes of conduct and establish educational programs for students on hazing awareness and prevention. Each institution must form a hazing prevention committee, including a student, a faculty or staff member, a parent, and a representative of a camps group, to promote and address hazing prevention.

If a student organization, association, or student living group permits hazing it may be held individually liable for damages to persons or property caused by hazing. Additionally, if that entity knowingly permits hazing it shall forfeit any official recognition or approval granted by the educational institution. Further, the institution must maintain and publicly report findings of actual violations by any student organization, athletic team, or living group of the institution's code of conduct, anti-hazing policies, or state or federal law relating to hazing or offenses related to alcohol, drugs, and sexual or physical assaults.

The act also imposes requirements on social fraternity and sorority organizations operating at an educational institution, including notifying the institution when investigating an instance of hazing, providing the results of that investigation, and requiring website listing for the previous five years of all findings of violations by the local chapter of anti-hazing policies, alcohol, drugs, sexual or physical assault, or the institution's code of conduct.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## **FISCAL IMPLICATIONS**

ENMU estimates the cost to provide on-line training to each new student annually, along with the related personnel costs to track and support the training, to be \$250 thousand.

In addition, this bill creates one new crime, which is a misdemeanor. Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have significant fiscal impacts. The creation of any new crime, increase of felony degree, or increase of

sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds. LFC estimates a marginal cost (the cost per each additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. SB55 is anticipated to increase the number of incarcerated individuals and increase the time they spend incarcerated.

This analysis estimates the impact on counties to be \$38.4 thousand per year, which cost also remains constant over the next two years. Without additional available data, this analysis assumes the new crime of hazing will result in at least two additional people being admitted to county jail for the hazing misdemeanor each year.

## **SIGNIFICANT ISSUES**

According to New Mexico Independent Community Colleges (NMICC), New Mexico is one of only six states that do not impose legal sanctions against hazing. HED advises that most New Mexico educational institutions include anti-hazing policies in their codes of conduct. This bill codifies these practices to ensure students and staff know of these policies. HED suggests that the biggest change may be the annual reporting requirement of findings of actual hazing violations, and notes that there is no requirement for state-level reporting that aggregates information on incidents of hazing.

HED expresses concern that SB55 may create extra burdens for up to 96 percent of the private post-secondary educational institutions operating in the state. It reports that most do not have athletic teams, social student organizations, or on-campus dormitories, and many have an annual enrollment count less than 200, so they may not be able to comply with the bill's requirements governing the composition of the hazing prevention committee. For instance, HED notes that a truck driving school may not be able to include a parent or guardian of a student.

NMAG suggests that implementing and enforcing SB55 might be difficult, given the broad definition of hazing contained in Section 3, including the exemption for customary athletic events or similar activities.

## **OTHER SUBSTANTIVE ISSUES**

NMICC is comprised of New Mexico's eight independent community colleges: Clovis Community College, Central New Mexico College, Luna Community College, Mesalands Community College, New Mexico Junior College, Southeast New Mexico College, Santa Fe Community College, San Juan College, and the New Mexico Military Institute. In addition, both Northern New Mexico College and Western New Mexico University, four-year institutions that also serve a community college mission are members of NMICC.

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