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| LFC Requester: | LFC |
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{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 2024-01-19
Bill No: HB151

Sponsor: Thomson, Elizabeth "Liz" Agency Name and Code NMHED
Short POST-SECONDARY Number: _____
Title: AFFIRMATIVE CONSENT 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 | N/A | N/A | N/A |
| | | | |
| | | | |

(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 |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| 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

BILL SUMMARY

HB151 requires public and private postsecondary educational institutions receiving state scholarship funds to adopt policies and trauma-informed responses that address affirmative consent and prevention of sexual assault, domestic violence, dating violence, harassment, and stalking. This bill requires these institutions to arrange for outside assistance to students and to provide comprehensive prevention and outreach policies for affirmative consent and prevention of sexual assault.

All public and private postsecondary schools that receive state scholarship funds must adopt detailed trauma-informed policies and procedures for investigation of and discipline related to allegations of sexual assault, domestic violence, dating violence, harassment, or stalking involving students, personnel, contractors and regents, on- and off-campus. This bill applies to public, private, nonprofit, and for-profit institutions physically present in the state that award vocational certificates or associate or higher degrees. This bill establishes detailed criteria, standards, and definitions for required affirmative consent and other matters in those policies and procedures.

HB151 is similar to 2023 HB43.

HB151 is related to 2021 HB142 and 2019 HB113.

FISCAL IMPLICATIONS

There is no appropriation in HB151.

SIGNIFICANT ISSUES

HB151 requires institutions to develop internal procedures regarding sexual misconduct in addition to those already required of institutions as mandated by Title IX of the Education Amendments of 1972, the Violence Against Women Act (VAWA) of 2021, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery) Act of 1990, and institutional policies regarding Title IX, VAWA, and Clery Act compliance that are already in place. Conflicts may exist between the requirements of HB151 and current institutional policies. The first step for each institution would be to ascertain if there are any discrepancies.

PERFORMANCE IMPLICATIONS

HB151 does not specify performance measures.

If enacted, the New Mexico Higher Education Department (NMHED) could develop a new rule to ensure that institutions have implemented the criteria listed in HB151 before receiving state financial aid.

ADMINISTRATIVE IMPLICATIONS

The New Mexico Higher Education Department (NMHED) may need to develop a new rule to ensure compliance at higher education institutions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Each institution would need to do analysis to ensure that existing institutional policies for Title IX of the Education Amendments of 1972, the Violence Against Women Act (VAWA) of 2021, and The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery) Act of 1990 are consistent with the policies called for in HB151, including the use of affirmative consent as a standard of practice.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Current institutional policies regarding sexual misconduct and compliance with Title IX of the Education Amendments of 1972, the Violence Against Women Act (VAWA) of 2021, and The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery) Act of 1990 would continue.

AMENDMENTS

N/A