

LFC Requester:

Jorgensen

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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 January 26, 2024

Bill No: \_\_\_\_\_

Sponsor: Thomson, Little, Romero,  
Gurrola, Chasey  
Short Title: Post-secondary Affirmative  
Consent Policies

Agency Name and Code NMICC-994  
Number: \_\_\_\_\_  
Person Writing \_\_\_\_\_  
Phone: \_\_\_\_\_ Email [vhawker@hawkerhynson.com](mailto:vhawker@hawkerhynson.com)

**SECTION II: FISCAL IMPACT**

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

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate				Post-secondary institution

(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**

Synopsis:

House Bill 151 (HB 151) requires all post-secondary institutions in New Mexico which receive state funding for student financial aid to adopt trauma-informed policies and trauma-informed responses for the investigation of sexual assault, domestic violence, dating violence, harassment or stalking involving a student, faculty member, employee, contractor, or regent.

All policies and procedures must: 1) utilize an affirmative consent standard in determining if consent was given by all parties; 2) confirm each party involved in the sexual activity is responsible

in ensuring all other parties have given affirmative consent; 3) affirmative consent can not be given by an individual who is asleep, unconscious, incapacitated, or unable to communicate; 4) affirmative consent can not be implied, assumed or inferred from silence or lack of protest or resistance; 4) affirmative consent can be revoked at any time; 5) the existence of a dating relationship is not an indicator of affirmative consent.

The preponderance of evidence standard shall be used.

HB 151 provides that post-secondary institution policies shall include provisions that address how the institutions will provide protections for the privacy and confidentiality of the parties involved; stipulates comprehensive, trauma-informed response training programs shall be provided for employees or contractors involved in investigating and adjudicating sexual assault, domestic violence, dating violence and harassment or stalking cases.

HB 151 states institutions shall enter into MOUs, agreements or collaborative partnerships with existing on-campus and community-based organizations to refer for assistance or to make services available to the parties at no cost. The institutions shall implement comprehensive prevention and outreach programs. The institutions shall make students aware of the institution's policies on sexual assault, domestic violence, dating violence and harassment or stalking, and the practical implications of the affirmative consent standard and the rights and responsibilities of all parties under the policy.

## **FISCAL IMPLICATIONS**

HB 151 does not carry an appropriation. There will be some financial impact on institutions as they update their materials to conform to the definitions in HB 151.

## **SIGNIFICANT ISSUES**

Post-secondary institutions shall implement the definitions and procedures stipulated in HB 151. One NMICC member institution, San Juan College, noted the impact would be minimal as San Juan College already complies with the stipulations of HB 151. The institution will need to realign their student handbook and employee handbook with the definitions provided in HB 151.

Any costs related to policy development/implementation, training will need to be absorbed by post-secondary institutions that do not meet the requirements of HB 151.

## **TECHNICAL ISSUES**

The definition of student should include students or trainees in non-credit programs.