

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

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 01/26/2024

Bill No: SB 55

Sponsor: Rep. Pope

Short Title: Creating the Anti-Hazing Act

Agency Name and Code Number: 305 – New Mexico Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill (“SB”) 55 seeks to propose the Anti-Hazing Act to prohibit and penalize the hazing of any student attending a public or private post-secondary educational institution. The bill defines key terms related to hazing and prohibits such acts, categorizing them as a misdemeanor. It holds student organizations accountable for hazing, with a potential penalty including liability for damages and loss of recognition or funding.

The Act would require institutions to include anti-hazing policies in their codes of conduct and to establish educational programs on hazing awareness and prevention. A key component is the formation of a hazing prevention committee at each institution. Additionally, the bill mandates annual public reporting of hazing violations, detailing incidents and sanctions, to be made accessible on institutions' websites.

The bill also covers requirements for employees and volunteers of educational institutions to receive hazing prevention education and report incidents. Special provisions are included for social fraternities and sorority organizations, requiring them to display a history of violations and comply with specific operational notifications. The bill seeks to provide a comprehensive approach to prevent and address hazing in educational environments.

Senate Education Committee Amendment

The proposed amendments to SB 55 include the following:

- remove "PENALTIES" from the title and insert in lieu thereof "A PENALTY";
- in Section 3, delete "PENALTIES" and insert in lieu thereof "PENALTY";
- in Section 3, strike lines 9 through 11, which read “D. Whoever commits hazing is guilty of a fourth degree felony.”; This amendment removes the most severe penalty from the bill. Hazing, however, remains a misdemeanor offense.
- in Section 5. delete “member” and add “is not subject to inspection pursuant to the Inspection of Public Records Act”. The amendment introduces a provision that reports related to hazing at educational institutions are not subject to inspection under the Inspection of Public Records Act (IPRA). This change potentially decreases transparency by making these reports less accessible to the public, thereby reducing institutional accountability. However, it also potentially adds extra privacy

protections to students and others in these educational settings.

FISCAL IMPLICATIONS

Investigations and reporting mandates under SB 55 are likely to have a fiscal impact on public and private post-secondary institutions, although the exact amount of financial burden would be institution specific. Additionally, it is unclear if there would be any cost savings from preventing hazing incidents, which might offset costs. SB 55 does not contain an appropriation.

SIGNIFICANT ISSUES

Implementing and enforcing the mandates of SB 55 may be difficult in light of the broad definitions of “hazing” contained within. SB 55 defines hazing as:

[A]ny 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 a person’s willingness to participate.

Importantly, in SB 55 “hazing does not include customary athletic events or other similar contests or competitions, practice, training, conditioning and eligibility requirements for customary athletic events or other similar contests or competitions, practice, training, conditioning and eligibility requirements for customary athletic events [...]”

It could be difficult to make objective determinations of hazing since the broad definition of hazing contained within SB 55 could include almost any activity relating to recruitment, initiation, pledging, or admission, provided that the activity causes, or is likely to cause, serious bodily danger or physical harm or serious psychological or emotional harm. Taken to its logical extreme, test-taking that causes anxiety and emotional harm could fall within the definition of hazing under SB 55. Alternatively, SB 55 seemingly permits other certain hazing activities provided they are undertaken in the context of “customary athletic events.” This seems to indicate that forcing a student or student athlete to complete some form of dangerous athletic task to gain admission into a student organization would be entirely permissible.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

SB 55 may need additional amendment to provide a mechanism or requirement for referral to local law enforcement for criminal investigation and prosecution.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Recent hazing incidents reported and investigated at New Mexico State University have been initially determined to be criminal in nature. Presumably, any activity where a student subjects another student to an assault, battery, or other bodily injury is already an existing crime.

AMENDMENTS

None.