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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Hernandez</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>1/25/24</u>
<b>SHORT TITLE</b> <u>Create Crime of Hazing</u>	<b>BILL NUMBER</b> <u>House Bill 225</u>
	<b>ANALYST</b> <u>Davidson</u>

### APPROPRIATION\* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$500.0	Nonrecurring	General Fund

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

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Department of Corrections		At least \$26.6	At least \$26.6	At least \$43.2	Recurring	General Fund
ENMU		\$250.0	\$250.0	\$500.0	Recurring	ENMU I&G
<b>Total</b>		At least \$276.6	At least \$276.6	At least \$543.2	Recurring	

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

Relates to Senate Bill 55

### Sources of Information

LFC Files

#### Agency Analysis Received From

Department of Corrections (NMCD)

Department of Public Safety (DPS)

New Mexico Institute of Mining and Technology (NM Tech)

University of New Mexico (UNM)

#### Agency Analysis was Solicited but Not Received From

Public Education Department (PED)

Higher Education Department (HED)

Council of University Presidents (CUP)

Community College Associations (CCA)

Agency Declined to Respond

Early Childhood Education & Care Department

## SUMMARY

House Bill 225 creates the crime of hazing and the crime of aggravated hazing. The bill proposes adding a new section of the criminal code that will define hazing and aggravated hazing, adding that the penalty for hazing is a misdemeanor, while the penalty for aggravated hazing is a fourth-degree felony.

The bill also proposes that public or private post-secondary educational institutions provide, at the beginning of the academic year, training on preventing hazing for employees. The bill defines that the “educational entities” that the bill applies to are public or private schools serving kindergarten through 12th grade students and public or private post-secondary educational institutions.

House Bill 225 appropriates \$500 thousand from the general fund to the Higher Education Department to implement a statewide online portal relating to training about hazing and how to report it in the portal. The appropriation also is meant to cover the hiring of staff to manage the portal as well.

The effective date of section 1 and 3 through 5 of the bill is July 1, 2024. The effective date of section 2 is July 1, 2025.

## FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund.

Agency analysis by the department of corrections (NMCD) addresses the creation of two new crimes, a misdemeanor and a fourth-degree felony, could result in higher prison populations. Specifically, the agency notes that a fourth-degree felony carries a penalty of up to 18 months of incarceration and that individuals serving longer than 12 months are served in NMCD facilities.

The bill also proposes yearly training at the beginning of the academic year but does not say if the appropriation will pay for these trainings or if educational institutions will. Agency analysis raised concerns about the additional costs placed on educational entities to enforce the training set out in this bill. The bill also does not specify if these training courses are based on national standards, local standards, or if the trainings will be tailored to specific regions or schools.

The bill does not address the possibility of the investigative costs it could create. By enacting the bill, in particular enacting that aggravated hazing penalty of a fourth-degree felony, universities would possibly have to add additional staff to ensure that the investigations are thorough.

## SIGNIFICANT ISSUES

Agency analysis for HB225 raised concerns regarding the clarification of hazing, substantial risk, and substantial harm. By not providing clarity on terms such as substantial risk, substantial harm

and substantial mental harm, the bill creates a foggy legal landscape for the prosecution of hazing and aggravated hazing and could create dilemmas for institutions who may be trying to implement the bill and its penalties but do not have the necessary specificity to do so.

Agency analysis also pointed to existing statute that already classifies assault, battery, and aggravated battery as existing crimes with existing penalties. A possible legal concern created by the bill is whether an individual who is charged with the new crime of aggravated hazing could also be charged for aggravated battery or if prosecution would have to choose between the two charges and penalties.

Analysis from the University of New Mexico (UNM) also addressed that the bill does not have specific language regarding cyberbullying and its possible place under new hazing laws. The analysis pointed to instances of fraternities cyberbullying a former member and how this sort of bullying should be classified under these new hazing laws. UNM currently has existing anti-bullying laws and penalties but does have specific anti-hazing laws.

According to data from stophazing.org, a research entity who works with state and federal partners to craft anti-hazing laws, laws against hazing vary from state to state. Some are robust while others are not. One of the states with some of the clearest and most definitive anti-hazing laws is Texas. Within its education code, Texas has created anti-hazing laws that apply to all private and public high schools and all postsecondary educational institutions. Texas's law has clear definitions for hazing and clear instructions on how schools implement effective deterrence measures. Researching how other states that have passed and implemented anti-hazing laws, and how effective they have been at preventing hazing, could prove beneficial.

Research shows that the creation of more severe penalties for crimes is not the most effective way to prevent them. An LFC report from 2022 on crime in Bernalillo County noted that the certainty of being caught is a more powerful deterrent to crime than severity of punishment. The bill's creation of more severe penalties for hazing without also providing direction as to how to increase the certainty of preventing hazing could result in hazing not being reduced but just the punishment for it being increased.

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

House Bill 225 is similar to Senate Bill 55. Both create crimes related to hazing, but SB55 creates the Anti-Hazing Act and includes sections regarding sororities and fraternities specifically. HB225 does neither.

House Bill 225 also only specifies training for staff in regards to hazing prevention, while SB55 specifies the training is needed for staff and for students.

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

Agency analysis points to the fact that currently New Mexico is one of six states without specific statewide hazing laws. Due to this, the prevention and reporting of hazing is done institution by institution, resulting in inconsistent data and varying levels of prevention. Agency analysis states that the possible consequence of not enacting HB225 would be the continuation of current inconsistent reporting standards.