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FISCAL IMPACT REPORT

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| SPONSOR <u>Senate Education Committee</u> | LAST UPDATED <u>2/04/2025</u> |
| | ORIGINAL DATE <u>1/25/2025</u> |
| SHORT TITLE <u>Anti-Hazing Act</u> | BILL NUMBER <u>Senate Bill 10/csSEC</u> |
| | ANALYST <u>Hanika-Ortiz</u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|------------------|------------------|------------------|--------------------|---------------------------|---|
| County Jails | No fiscal impact | At least \$76.8 | At least \$115.2 | \$192.0 | Recurring | County General Funds |
| NMCD | No fiscal impact | No fiscal impact | At least \$112.8 | At least \$112.8 | Recurring | General Fund |
| Universities | No fiscal impact | At least \$433.0 | At least \$433.0 | At least \$866.0 | Recurring | General, Other State, and Federal Funds |
| Colleges | No fiscal impact | At least \$216.0 | At least \$216.0 | At least \$432.0 | Recurring | General, Other State, and Federal Funds |
| Total | No fiscal impact | At least \$725.8 | At least \$764.2 | At least \$1,490.0 | Recurring | Various |

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

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)
 Higher Education Department (HED)
 New Mexico State University (NMSU)
 University of New Mexico (UNM)
 New Mexico Highlands University (NMHU)
 New Mexico Institute of Mining and Technology (NMT)
 New Mexico Independent Community Colleges (NMICC)

SUMMARY

Synopsis of Committee Substitute for Senate Bill 10

The Senate Education Committee Substitute for Senate Bill 10 (SECS/SB10) proposes the Anti-Hazing Act which defines hazing as an intentional, knowing, or reckless act against a student committed in connection with participation in a student organization. The substitute bill adds two new crimes for “hazing” and “failure to report hazing” and classifies both as misdemeanors. The new crime of “failure to report hazing” also applies to school employees and contractors that knew or should have known. The New Mexico Attorney General (NMAG) and district attorneys are tasked with enforcement.

Beginning the 2025 fall term, private and public colleges and universities would have to update their student codes of conduct to prohibit hazing, provide anti-hazing education, set up hazing prevention committees, and publicly report hazing acts. Fraternities and sororities that do not investigate or report hazing acts could face loss of recognition by the educational institution. If the organization is a corporation, the directors could also be individually liable for damages.

This bill does not have an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The consequence for hazing a student includes loss of state-funded awards. New Mexico State University (NMSU) reported in its analysis of the original bill that it does not remove state funding as part of sanctions.

There is no exact estimate for what institutions expect to spend on programming and reporting requirements, but compliance may require significant administrative and financial resources.

The cost to implement awareness programs, develop reporting systems and websites, and coordinate with law enforcement, could be as high as \$1.3 million in total over three years according to the larger universities, depending on the size of the campus and the effort to date on the issue. For example, NMSU has a hazing prevention committee that has met monthly since 2023. Smaller colleges should see fewer if any hazing acts but could still face challenges meeting expectations. UNM notes training costs would be about \$15.3 thousand annually for its students.

More importantly, the substitute bill creates two new crimes which it classifies as misdemeanors. If convicted, these crimes are punishable by up to one year in jail and a \$1,000 fine. Without more data, the budget impact table above suggests the new crimes would result in at least four people being admitted to county jails per year at a cost of \$19.2 thousand per county inmate. The crime proposed in this bill for a misdemeanor is punishable by up to one year of incarceration. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY24 was \$56.7 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per year across all facilities. The Sentencing Commission (NMSC) estimates the length of stay for those convicted of a misdemeanor as 1.1 years. Using the estimate above that least four individuals will be convicted of crimes added by SB10, NMCD could be expected to incur at least \$112.8 thousand in costs starting in FY27.

School employees are liable if they reasonably should have reported an act of hazing but failed to do so. Because most institutions are self-insured, this may result in more claims against the state. These acts are high profile, however, and it would not be unusual to see early settlements to avoid the bad publicity. The cost to defend and settle these claims would come from the public liability fund.

SIGNIFICANT ISSUES

Because of nation-wide concerns about severe injury and death from hazing, the federal bipartisan Stop Campus Hazing Act (SCHA) was signed into law December 23, 2024. The Act requires colleges and universities that participate in federal student aid programs to start collecting hazing statistics, have anti-hazing policies in place by June 23, 2025, begin

documenting violations by July 1, 2025, make violations publicly available by December 23, 2025, and include hazing statistics in their required annual security reports starting with the 2026 report. Institutions that choose not to follow the SCHA could face the loss of federal funding.

Per the SCHA, the federal Department of Education is tasked with ensuring colleges and universities follow the anti-hazing prevention efforts and reporting requirements in the Act.

On page 2 (A)(1) line 15 uses the phrase “an affiliation with” which could be considered overly broad. This phrase covers any connection a student has with a social or academic organization.

On page 8 (C) lines 13-17 it is unclear if a person who believes hazing has or will occur, and makes a report in good faith, would be sanctioned or not for the “violation of hazing.” The bill may want to specify if the phrase refers to the crime of hazing or the violation of a hazing policy.

On page 3 lines 23 to page 4 line 3 “any organization, association or student living group that knowingly permits hazing...shall forfeit any official recognition...” by the institution. NMSU is concerned that this could result in the elimination of programs that enrich the lives of students. Changing “shall” to “may” will allow the institution to make a judgement call about withdrawing recognition and for how long. The current standard is to revoke a charter for long enough for all students associated with the organization to have left the university (four to six years).

On page 5 line 18 NMSU also said that given student time commitments, it recommends changing “Fifty percent of the committee shall include students...” to “Committee members shall include at least two undergraduates and one graduate student attending the institution...”

ADMINISTRATIVE IMPLICATIONS

Colleges and universities would use staffing resources to provide anti-hazing programming, investigate allegations, report violations, preserve records, and coordinate with campus police.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB148, which would also create the Anti-Hazing Act, in terms of criminal punishment for acts of hazing.

OTHER SUBSTANTIVE ISSUES

Forty-four states have legal consequences for hazing activities. The six states without these laws include Alaska, Hawaii, Montana, South Dakota, Wyoming, New Mexico. HED reports that most institutions in New Mexico have anti-hazing policies in place in student conduct policies.