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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/15  
 LAST UPDATED 2/27/15      HB 446

SPONSOR Fajardo

SHORT TITLE College Sexual Assault Prevention      SB \_\_\_\_\_

ANALYST Chavez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$500.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Unknown				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)  
 Higher Education Department (HED)  
 Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

House Bill 446 appropriates \$500 thousand from the general fund to the Higher Education Department (HED) to contract with rape crisis centers to provide sexual assault prevention and response services to students attending post-secondary institutions in New Mexico.

### FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a nonrecurring expense to the general fund. As stated in the bill, any unexpended or unencumbered balance remaining at the

end of FY16 shall not revert to the general fund. However, should the appropriation be included in Section 4 of the General Appropriation Act to HED's policy development and institutional financial oversight program, the funds would revert to the general fund pursuant to language governing that program.

HED notes that while this bill is written as a one year appropriation, this would need to be a recurring appropriation to fulfill the objectives outlined in the bill.

## **SIGNIFICANT ISSUES**

There has been increasing pressure on institutions of higher education nationwide to respond more comprehensively to sexual assaults. In 2011, the Office for Civil Rights within the U.S. Department of Education (USDE) sent a letter to campuses explaining that a college's mishandling of complaints could lead to that college being found in violation of Title IX of the Education Amendments of 1972, which prohibits gender discrimination at educational institutions that receive federal money. According to the Chronicle of Higher Education, the USDE is currently investigating 96 colleges for Title IX violations.

Sexual assault has received significant media attention in recent months as students alleging being the victims of sexual assault have begun to criticize institutions of higher education for insufficient responses and policies regarding sexual assault. Additionally, a study released by the Department of Justice in December 2014 found that student victims of sexual assault are far less likely to report instances of rape to police than nonstudents and that one in five victims fear reprisal if they report the attack. The study, which focused on 100,000 sexual assault victims between the ages of 18 and 24 who were attacked between 1995 and 2013 found that college-age women were three times as likely to be assaulted as girls between the ages of 12 and 17 or women older than 25.

Institutions have responded to in a variety of ways, including offering educational programs, changing the disciplinary procedures for sexual assault allegations, and hiring professional consultants to investigate claims of sexual assault. The Chronicle of Higher Education reports that United Educators, an insurance and risk-management firm, determined that in a recent three-year period, the company and about 100 of its member institutions spent more than \$17 million defending against and resolving claims involving sexual assault. HSD notes rape crisis centers in New Mexico's post-secondary institutions have launched dramatic and successful efforts for preventing sexual assaults and promoting reporting and response to better serve the students who are assaulted. HSD adds appropriation of \$500,000 could provide important resources for strengthened services for post-secondary students.

DOH notes that one in four women in New Mexico, and one in five women nationally, has been raped during her lifetime (SEX CRIMES IN NEW MEXICO V: An Analysis of Data from *The Survey of Violence Victimization in New Mexico*, 2005). DOH adds that of all women who have been sexually assaulted, 38 percent were first raped between the ages of 18-24 (Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization — National Intimate Partner and Sexual Violence Survey, Centers for Disease Control and Prevention, 2011). Finally, DOH notes national data indicate that one in five women has been sexually assaulted while attending college.

DOH provides the following information on rape in a college environment:

Rapes that occur in a college environment are often perpetrated by a small number of offenders. One study indicates that 63 percent of men who reported having sexually assaulted a woman while in college had assaulted more than six women. Reporting rates for campus sexual assault are low, and when victims do report, many offenders are not prosecuted (Rape and Sexual Assault: A Renewed Call to Action, White House Council on Women and Girls, January 2014).

In 2014, the White House formed a task force to protect students from sexual assault. Two goals of the task force are to provide educational institutions with information about best practices in sexual assault prevention and response, and to hold schools accountable if they do not confront sexual violence. No federal monies have been appropriated. This leaves colleges in New Mexico and elsewhere without necessary funding to comply with the requirements set forth by the task force.

Finally, DOH notes that agency also contracts with rape crisis centers throughout the state, and has been working to increase their capacity to conduct evidence-based sexual assault prevention activities. However, to date none of this funding has been designated specifically for college students.

### **ADMINISTRATIVE IMPLICATIONS**

HED would be responsible for administering the funds for expenditures related to contract procurement, services rendered, and prevention activities provided by the rape crisis centers to students attending post-secondary educational institutions in New Mexico. HED adds this request includes new functions or assignments to HED and may increase administrative costs to HED. HED suggests additional staffing may be required to support this initiative.

### **OTHER SUBSTANTIVE ISSUES**

California governor Jerry Brown signed a bill, SB 967, in September 2014 requiring colleges and universities in the state to adopt anti-sexual-assault policies that changes the standard for consent to sexual activity in campus judicial hearings from whether or not a person said "no" to whether both partners said "yes." The new law requires all campuses in the state to use the standard as a condition of receiving state funds for student financial aid. The law does not affect criminal proceedings in California, but only applies to campus disciplinary hearings. The bill also requires school officials who investigate sexual assault allegations to undergo "comprehensive, trauma-informed trainings" and that students who report a rape are offered counseling and mental and health care services.

### **ALTERNATIVES**

HED suggests that utilizing the existing referral services that exist at the public postsecondary colleges and universities would reduce costs and avoid duplication of effort. HED notes the Legislature could support expansion of the existing referral services at each institution directly, with HED acting in an advising and/or coordinating capacity.