

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/09

SPONSOR Keller LAST UPDATED HB

SHORT TITLE Public College Paid Leave Discrimination SB 444

ANALYST Williams

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$8,000.0	\$8,000.0	\$16,000.0	Recurring	General Fund and Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

New Mexico Independent Community Colleges

SUMMARY

Synopsis of Bill

Senate Bill 444 directs each public post-secondary educational institution to have a consistent, campus-wide leave policy such that all full-time employees, regardless of category, are treated equally. Employees would be permitted to have progressive leave accrual policies based on longevity.

FISCAL IMPLICATIONS

HED projects an estimated 10 percent increase, or \$5 million to \$10 million per year, across all New Mexico public universities and colleges due to salary and benefit increases. To comply with the proposed legislation, institutions would either: 1) allow the same leave accrual rates for full-time nine-month employees as those individuals working year-round or 2) increase contract length for nine-month employees to twelve months.

SIGNIFICANT ISSUES

HED discusses this bill could circumvent the collective bargaining process, appears to be in conflict with existing statute and would result in classroom education disruptions. The Public Employee Bargaining Act requires parties to bargain over terms and conditions of employment and only change an existing contract by mutual agreement. The proposed language violates the current collective bargaining agreement between at least one college and its employee union. Under Section 21-13-10 NMSA 1978, it is the duty of the community college board to determine financial and educational policies of a community college. Finally, the use of substitutes and guest lecturers to accommodate leave of instructional faculty would be disruptive and would increase salary costs. HED recommends the issue be addressed through collective bargaining.

New Mexico Independent Community Colleges indicate this bill would have significant impact on institutions via a mandate of specific employment conditions “that may conflict with sound business practices, interfere with existing collective bargaining agreements and otherwise infringe on the authority of institutional governing boards to control and manage their institutions.”

TECHNICAL ISSUES

The term “nonexempt” may need to be defined to clarify the intent of this legislation.

OTHER SUBSTANTIVE ISSUES

There are several different groups of employees on college and university campuses, with potentially different employment terms and conditions. Some non-exempt employees such as those who work in the business office or on a maintenance crew may work on a twelve-month basis and have fringe benefits (including annual and sick leave). Other non-exempt employees may be hired to work on a “full-time” basis, but only for periods when instruction is taking place. Their services may not be required during summers or between academic terms. Examples would include tutors and instructional lab assistants. Faculty and classroom assistants accumulate a different rate of leave than year-round employees because they have summers free, spring and fall breaks, and a break between semesters. Further, these employees are considered to have greater schedule flexibility outside of classroom hours during the workweek.

Under the provisions of this bill, nine-month employees would accumulate additional leave during the nine-month period of instruction as well as benefit from the various breaks discussed earlier. According to HED, there would be a resultant substantial disparity between year-round staff, who work summers and during most breaks. Instructional employees would be entitled to leave when classes are in session, resulting in an increased cost for substitutes. Further, non-instructional support staff are expected to demand a comparable increase in pay or benefits.

AW/svb