F I S C A L I M P A C T R E P O R T

	ORIGINAL DATE	2/20/2015	
SPONSOR Sapien	**LAST UPDATED**		**HB**
SHORT TITLE	Private College Surety Bond Increase		**SB** 548
		ANALYST	Hartzler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act, Section 4J, Higher Education Department, Policy Development and Institutional Financial Oversight Program

Relates to SB 446, Interstate Distance Education Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

Senate Bill 548 amends 21-23-7.1 NMSA 1978, the Post-Secondary Educational Institution Act, to increase the minimum amount of a surety bond required by a college, university, or career school (CUCS) operating in New Mexico. The bill would require a minimum surety bond of $1.5 million but not more than 50 percent of a CUCS's gross annual tuition revenue in New Mexico.

The state requires these schools to have a surety bond payable to HED in an amount necessary to indemnify any student damaged (1) as a result of fraud or misrepresentation by a registered or licensed college, university or career school or (2) as a result of the CUCS ceasing operations prior to its students having completed the programs for which they have contracted.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. Given the increasing number of CUCs seeking to operate in New Mexico, recent claims by students who have received favorable judgments against such institutions, and HED's responsibility for administering these institutions, the department supports increasing the surety bond amount. To illustrate, hundreds of CUCS failed in 2014, resulting in New Mexico students filing claims against these entities. HED held a $25 thousand surety bond to cover against such claims, but the department noted the amount was insufficient to compensate more than two students. A higher bond would have allowed more students to recover damages against the failed institutions.

HED reports

> This proposed legislation amends NMSA §§21-23.7.1 and 21-24-5 to increase the minimum and maximum amounts of surety bonds the [department] may require private schools to obtain for the protection of students In both statutory sections, the surety bonds are specifically to provide indemnification to any student suffering loss as a result of fraud or misrepresentation.

SIGNIFICANT ISSUES

As stated in Section 21-23-2 NMSA 1978, the purpose of the Post-Secondary Educational Institution Act is to improve the quality of private post-secondary education, to prevent misrepresentation, fraud and collusion in offering educational programs to persons over the compulsory school attendance age and to protect consumers enrolled in private post-secondary educational institutions when those schools cease operation or fail to meet standards of quality established by the department. SB 548 would minimize damage to students resulting from institutions that fail to provide students with promised educational programming.

Further, SB 548 bolsters the state's efforts to prove it has adequate student protection for reimbursements of tuition when schools fail. The state seeks to join the State Authorization Reciprocity Agreement (SARA), an interstate compact regulating the delivery of distance education and providing broad consumer protections. (See SB 446, authorizing the state to join SARA.) SARA requires its member states to guarantee adequate protection of students when schools fail and assure that state-registered schools are financially stable.

PERFORMANCE IMPLICATIONS

The bill does not contain performance measures.

ADMINISTRATIVE IMPLICATIONS

There are no additional administrative requirements since HED currently requires CUCS to secure surety bonds.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

It is possible that students who are victims of fraud or misrepresentation by a CUCS or whose training is halted because an institution closes suddenly will not receive compensation for their lost tuition and other fees due to lack of funding.

TH/bb/je