# FISCAL IMPACT REPORT

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| | | **LAST UPDATED** | 2/28/23 |
| **SPONSOR** | Muñoz | **ORIGINAL DATE** | 2/23/23 |
| **SHORT TITLE** | Higher Ed Funding after Budget Passes | **BILL NUMBER** | Senate Bill 494/aSFC |
| | | **ANALYST** | Jorgensen |

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

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| | Indeterminate | Indeterminate | Indeterminate | | | |

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

### Sources of Information

LFC Files

Responses Received From
Council of University Presidents
Higher Education Department (HED)
Independent Community Colleges (ICC)

## SUMMARY

### Synopsis of SFC Amendment to Senate Bill 494

The Senate Finance Committee amendment changes the effective date of the provisions from the date the General Appropriation Act becomes law to the date the GAA is passed by the Legislature.

### Synopsis of Original Bill

Senate Bill 494 (SB494) directs the Higher Education Department (HED) to reduce the approved budget of a higher education institution that increases tuition or fees after the General Appropriation Act is passed by the same amount of revenue as the tuition and fee increase would have generated. SB494 then directs the Department of Finance and Administration (DFA) to reduce the monthly allotments paid to the colleges and universities to reflect the reduced operating budget.

SB494 allows HED, in consultation with DFA, to waive the reduction in the appropriate operating budget when exigent circumstances, to be defined by HED, exist. SB494 defines exigent circumstances as including

1. A significant decrease in student enrollment,
2. An epidemic or other health emergency,

3. Economic conditions affecting institutional finances,
4. Legislation that mandates the institution provide new services or otherwise act in compliance with new law that has a fiscal impact on the institution without providing a necessary appropriation.

SB494 requires HED and DFA to report to the Legislative Finance Committee on any budget adjustments made under the bill.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. SB494 contains a delayed repeal date of July 1, 2028.

## FISCAL IMPLICATIONS

SB494 allows HED to reduce operating budgets of higher education institutions should the institution increase tuition after the passage of GAA. This could create savings to the state. However, under SB494, HED has broad discretion to waive operating budget reductions in certain circumstances, including exigent circumstances such as "economic conditions affecting institutional finance." HED's broad authority under SB494 makes it difficult to tell if enactment of the bill would result in holding tuition rates lower or in operating budget reductions.

Enactment of SB494 compels colleges and universities to set tuition rates further in advance than current practice. While this would provide students with more certainty in tuition cost, it may also incentivize colleges and universities to increase tuition at a higher rate than they otherwise would. This is because of the increased uncertainty that comes from setting tuition rates before the GAA is passed. For example, institutions would need to make assumptions about budget and compensation increases in the GAA and anticipate other potential legislation. Schools would have an incentive to use conservative assumptions to avoid budget shortfalls. Increases in tuition rates would have a fiscal impact on the state-funded lottery and opportunity scholarship programs. However, nothing in SB494 requires HED to reduce operating budgets and institutional tuition policy may not change as a result of enactment. Therefore, the fiscal impact of SB494 is indeterminate.

## SIGNIFICANT ISSUES

Current higher education practice is for tuition increases to be calculated after the GAA is passed. This allows higher education institutions to account for appropriations from the Legislature as well as statutory changes when determining tuition and fee levels. HED states setting tuition rates prior to the enactment of the GAA would require institutions to adjust their budgeting schedules up to one year in advance.

The Council of University Presidents (CUP) and the Independent Community Colleges (ICC) note:

> This bill prevents state-funded higher education institutions from effectively budgeting. In current budgeting practices, institutions consider the appropriations contained in the general appropriations act when setting tuition levels. The current New Mexico higher education appropriation process contains unfunded mandates related to the compensation increases. When appropriations are provided for operating costs, the appropriations typically provide operating cost increases that are less than inflationary increases. … It is common for institutions to balance the budget each year with tuition increases.

SB494 states budgets would be adjusted to reflect increases in tuition or general fees after the GAA is passed. “General fee” is a defined term in Section 21-1-4 NMSA 1978 and includes non-instruction and general functions, such as student union services, student health services, debt service, and athletics. CUP and ICC note there are a number of student-initiated fees recommended by a student-led board and approved by the institution’s board of regents. Under SB494, increases in these fees that occur after enactment of the GAA could trigger a reduction in the school’s budget.

## ADMINISTRATIVE IMPLICATIONS

Should SB494 be enacted, colleges and universities would likely need to calculate need for tuition increases further in advance. Additionally, HED would need to promulgate rules governing operating budget reduction determinations and waiver practices.

## TECHNICAL ISSUES

There seems to be a typo on page 2, line 8: “higher education department shall ***the*** notify the institution”. The line should read: “higher education department shall ***then*** notify the institution”.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The GAA, as passed by the House, includes a 5 percent salary increase for all higher education employees. The general fund appropriation for compensation at colleges and universities pays for 80 percent of the cost of the salary increase leaving the institutions to pay the other 20 percent from non-general fund sources. It is unclear if increasing tuition to pay for the legislatively mandated tuition increase would trigger a budget reduction. Similarly, the GAA includes funding to pay 85 percent of the cost of a 1 percent increase in employer pension contribution rates.

## OTHER SUBSTANTIVE ISSUES

Each institution has an instruction and general purposes budget line with multiple appropriation sources. SB494 does not specify which revenue source within the instruction and general budget line is to be adjusted down to account for tuition increases.

SB494 applies to colleges and universities enumerated in Article 12, Section 11, of the constitution of New Mexico and their branches. Independent community colleges are established statutorily and are thus excluded from provisions of the bill. The table below shows the institutions impacted by SB 494:

| Covered by SB494 | Not Covered by SB494 |
|---|---|
| University of New Mexico | Central New Mexico Community College |
| New Mexico State University | Clovis Community College |
| Highlands University | Luna Community College |
| Western New Mexico University | Mesalands Community College |
| Eastern New Mexico University | New Mexico Junior College |
| New Mexico Institute of Mining and Technology | San Juan College |
| New Mexico Military Institute | Santa Fe Community College |
| Northern New Mexico College | Southeast New Mexico College |

CJ/al/hg/rl/ne