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FISCAL IMPACT REPORT

SPONSOR Senate Floor ORIGINAL DATE 3/4/19
 LAST UPDATED 3/5/19 HB _____

SHORT TITLE NMSU Campus in San Luis Potosi, Mexico SB CS/SB314/aHEC

ANALYST Gaussoin/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)
 New Mexico Attorney General (NMAG)
 New Mexico State University (NMSU)
 Independent Community Colleges

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment to the Senate Floor Substitute for Senate Bill 314 adds international arbitration as an alternative means to resolve disputes (the other being state court jurisdiction as in the original version of the substitute). This amendment is in keeping with NMSU's suggestion under Significant Issues.

Synopsis of Original Bill

The Senate Floor Substitute for Senate Bill 314 provides a new section in Chapter 21, Article 8 NMSA 1978, to allow NMSU to establish a branch campus in San Luis Potosi, Mexico, in central Mexico. It prohibits the university from using state funds for capital investments or to make financial contributions to private investors for operations of the campus.

FISCAL IMPLICATIONS

The substitute contains no appropriation and limits the use of state money. NMSU reports the campus, a collaboration of the university and the private investment group El Grupo Promotor (EGP), could generate significant income for the university once enrollment reaches full potential.

According to NMSU, a nonbinding letter of intent signed by the NMSU regents and EGP states NMSU will not make any capital investment or any other financial contribution toward the development and operation of the campus. The university says it would only contribute its expertise, intellectual property assets (including its name and trademarks), and development and oversight of academic programs.

The university indicates it would incur indirect costs before the campus opens because of the need to evaluate the proposal, conduct feasibility studies, develop programs, register trademarks, analyze legal documents, and perform similar duties. However, these costs would be absorbed in the university's budget.

SIGNIFICANT ISSUES

State law requires state colleges and universities to obtain approval from the Legislature before establishing a new campus. NMAG says this legislation meets that condition. HED reports state law requires HED review any proposal to establish a new college campus; the department has not had the opportunity to study NMSU's proposal.

Although initial investigation suggests the collaboration could benefit NMSU, the university says it will not proceed until it has completed a thorough review and reaches a satisfactory agreement with EGP. The nonbinding letter of intent provides for the parties to evaluate the concept and negotiate an agreement by April 2019, although the evaluation period can be extended.

NMSU says a San Luis Potosi campus would enrich the academic experience of students and faculty in both countries, advance globalization, and promote international relations. The university says San Luis Potosi has a large industrial presence and a campus there could expand student internship opportunities.

The university reports EGP would build the campus and pay for operations, including the salaries of faculty and staff selected by NMSU. EGP would collect tuition and fees and pay NMSU a quarterly commission equal to 12 percent of gross tuition and fees revenue. The cost of tuition at the Mexico campus would be 150 percent of the in-state rate at the NMSU main campus, the same rate charged to Mexican students enrolled on the main campus.

NMSU will develop and implement the degree programs in consultation with EGP and exercise authority over all courses and degree programs. Graduates will earn an NMSU diploma.

NMSU worries the requirement that the agreement with the private third party contractor being subject to the jurisdiction of the third judicial district court would create "an insurmountable negotiating hurdle."

International agreements are subject to arbitration enforceable in the courts of either country. Requiring resolution of any dispute in the courts of New Mexico may not be beneficial to NMSU or to the state, since the contractor has no assets in New Mexico against which a judgment could be enforced. Under arbitration, the arbitrator's award could be enforced by the courts of either country. Further, allowing arbitration will create negotiating space in the likely event that the contractor rejects a demand to submit to the courts far from the actual project and in a country in which they do not do business. Adding arbitration as an alternative improves the likelihood that NMSU will successfully secure a favorable agreement for the SLP campus.

ADMINISTRATIVE IMPLICATIONS

Evaluation of the proposal, negotiation of the contract, and development and oversight of Mexico campus academic programs are likely to involve extensive staff efforts. NMSU reports those efforts can be accomplished with existing staff.

OTHER SUBSTANTIVE ISSUES

NMSU says EGP wants to offer qualified students an opportunity to obtain an affordable education from an American university. NMSU would join Arizona State University, the Massachusetts Institute of Technology, and a few other universities that have developed strong partnerships with universities in Mexico.

NMSU recognizes the potential risk of EGP collapsing while students are still enrolled, which would require the university to “teach out” the enrolled students under its accreditation standards. NMSU will conduct “extensive” due diligence to mitigate the risk

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Negotiations between NMSU and EGP will end.

HFG/gb/sb/al/gb