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FISCAL IMPACT REPORT

SPONSOR Gonzales ORIGINAL DATE 03/14/21
LAST UPDATED _____ HB _____
SHORT TITLE Develop Education Plan for Yazzie Lawsuit SM 26
ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | NFI | NFI | NFI | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HM26
Relates to SB148

SOURCES OF INFORMATION

LFC Files
Legislative Education Study Committee (LESC) Files

Responses Received From

Early Childhood Education and Care Department (ECECD)
Indian Affairs Department (IAD)

No Response Received

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Memorial 26 requests PED to immediately develop a comprehensive action plan by September 30, 2021, to address the inequities and deficiencies identified in the *Martinez-Yazzie* lawsuit. The plan should include goals, time frames, staffing, accountability measures, and projected funding amounts, developed in consultation with plaintiffs, education, and tribal community stakeholders and reported to the Legislature, Legislative Finance Committee, and Legislative Education Study Committee.

FISCAL IMPLICATIONS

The memorial does not include an appropriation but instead requests PED to develop a plan to address the findings from the *Martinez-Yazzie* lawsuit. Costs of developing an action plan will

have minimal or no additional fiscal impact to PED, as the department already requests funding annually for initiatives to address findings from the *Martinez-Yazzie* lawsuit.

SIGNIFICANT ISSUES

On February 14, 2019, the 1st Judicial District Court issued a final judgment and order on the consolidated *Martinez v. New Mexico* and *Yazzie v. New Mexico* education sufficiency lawsuits, and found that New Mexico's public education system failed to provide a constitutionally sufficient education for at-risk students, particularly English language learners, Native American students, and special education students. The court's findings suggested overall public school funding levels, financing methods, and PED oversight were deficient.

As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local school districts spent funds provided in a way that efficiently and effectively met the needs of at-risk students. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

In 2008, the Legislature commissioned the American Institutes for Research (AIR) to conduct a study that would determine the cost of a sufficient education for all public schools in New Mexico. Findings suggested at the time that state support for public schools should increase by \$335.8 million in 2006-2007 dollars. The AIR study included a public engagement process to define the conceptual framework for sufficiency and resulted in a new school funding formula and total estimated cost of sufficiency. The findings recommended increased funding for at-risk students and extending the school year. However, in the *Martinez-Yazzie* lawsuit, the court rejected the AIR study, noting the recommendations were politically motivated rather than scientifically based.

PERFORMANCE IMPLICATIONS

The action plan to address findings from the *Martinez-Yazzie* lawsuit would need to close the achievement gap between at-risk students and their peers and improve the opportunity for all students to be college and career ready. Execution of such a plan would, at minimum, impact student proficiency rates, graduation rates, and college remediation rates as intended by the court.

IAD notes the memorial would require the state to also comply with the Indian Education, Bilingual Multicultural Education, and Hispanic Education Act.

ADMINISTRATIVE IMPLICATIONS

PED would need to develop an action plan in consultation with plaintiff, education, and tribal stakeholder groups.

DUPLICATION, RELATIONSHIP

This memorial duplicates House Memorial 26. The memorial also relates to Senate Bill 148, which creates a commission to make recommendations on addressing the *Martinez-Yazzie* lawsuit.

OTHER SUBSTANTIVE ISSUES

The memorial requests PED to build on existing plans and recommendations developed by education and tribal community stakeholders and researchers. The Tribal Education Alliance (TEA), a coalition of tribal education leaders, experts, and advocates, including the Santa Fe Indian School Leadership Institute and UNM Native American Budget and Policy Institute, developed a tribal remedy framework, which requests \$143.2 million to address the *Martinez-Yazzie* lawsuit. ECECD notes the framework was developed and endorsed collectively by tribal communities and indigenous experts.

While the framework intends to address the lawsuit's findings for Native American students, none of the appropriation requests are directly for public schools. Instead, the framework primarily allocates funding to tribal entities, communities, and colleges for capital outlay, broadband needs, and local educational programming and planning.

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