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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/2022

SPONSOR Lente LAST UPDATED _____ HB 185

SHORT TITLE Develop Comprehensive Education Plan SB _____

ANALYST Gaussoin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
	\$800.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Memorial 12
 Relates to appropriations in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files
 Legislative Education Study Committee (LESC) Files

No Response Received

Public Education Department (PED)
 Indian Affairs Department (IAD)
 Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 185 (HB185) appropriates \$800 thousand from the general fund to the Public Education Department to develop a comprehensive plan to address the deficiencies identified by the court in the *Martinez-Yazzie* education lawsuit and specifically the needs of the four groups identified by the court as at risk: Native American students, English learners, students with disabilities, and low-income students.

The plan would include

- Short- and long-term goals;
- Timeframes for implementation;
- A review of staffing issues with a focus on increasing the number of Native American and bilingual teachers in districts with high numbers of at-risk students;

- Accountability measures;
- Culturally and linguistically relevant programs as required by the Hispanic Education, Indian Education, and Bilingual Multicultural Education acts;
- Funding amounts needed to meet the educational needs of the court’s four at-risk groups.

In addition, the department would be required to develop a plan to build a highly qualified and diverse teacher workforce that includes

- Embedding certification for bilingual education or teaching English to speakers of other languages certification and classes in special education and culturally and linguistically responsive instruction in all teacher preparation programs;
- Building capacity in non-English instruction and multicultural instruction among teachers already in the classroom by 2024;
- Increasing the number of Native American and Hispanic teachers in the workforce.

The department is to present the final comprehensive plan and its funding needs to the Legislature by June 1, 2023.

This bill has no effective date. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The appropriation of \$800 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY23 shall revert to the general fund.

Because PED already receives annual appropriations to address the *Martinez-Yazzie* lawsuit, the department is unlikely to need additional funding to complete the plan.

SIGNIFICANT ISSUES

House Memorial 26, passed during the 2021 regular legislative session, requested the department complete a *Martinez-Yazzie* action plan by September 30, 2021, but the department missed the deadline. PED is already developing a comprehensive plan for addressing the needs of Native American students. However, a draft that was to be reviewed by tribes in October was not completed on time. The department also missed its December 31 deadline for releasing the plan to the public.

Tribal Remedy Framework. The Tribal Remedy Framework, developed by the Native American Budget and Policy Institute at the University of New Mexico, is a comprehensive plan for meeting the education needs of Native students and their communities created collectively by tribal representatives and Indigenous education specialists in response to the *Martinez-Yazzie* findings.

***Martinez-Yazzie* Lawsuit.** In the February 14, 2019, final judgment and order on the consolidated *Martinez v. New Mexico* and *Yazzie v. New Mexico* education sufficiency lawsuits, the 1st Judicial District Court found New Mexico’s public education system failed to provide a constitutionally sufficient education for at-risk students, particularly English 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.

PERFORMANCE IMPLICATIONS

A 2021 LFC evaluation on implementation of the Indian Education Act found Native American students continue to perform well below peers on state and national measures of achievement, despite the availability of nearly \$147 million in state and federal funds at public schools and institutions of higher education for purposes aligned to the act. The report noted a history of understaffing at PED’s Indian Education Division, difficulties with funding utilization, challenges with local collaboration, and a lack of specific, targeted outcomes have resulted in a system that has not served Native American students in a comprehensive and coordinated manner.

An effective action plan could result in the state closing the achievement gap for at-risk students, improving student proficiency scores on standardized tests, graduation rates, and college remediation rates.

ADMINISTRATIVE IMPLICATIONS

PED would need to invest significant staff time and agency resources into the plan.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Memorial 12 and Senate Memorial 12 request PED to develop a comprehensive plan to address the needs of Native American students, English learners, students with disabilities, and low-income students.

House Bill 60 would establish a minimum wage for Native language speakers.

House Bills 87 and 88 would appropriate \$20 million and \$21.5 million, respectively, to the Indian education fund for tribal education departments and tribal libraries, although the bills conflict in their methods of distribution.

House Bill 89 would appropriate \$89.4 million to the Indian Affairs Department mostly for tribal libraries.

House Bill 90 appropriates almost \$30 million to state and tribal colleges for undergraduate and graduate programs.

The House Appropriations and Finance Committee substitute for House Bill 2, the General

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Appropriation Act of 2022, includes almost \$15 million for the Indian education fund, \$1.25 million to increase salaries for teachers who hold a Native American language and culture certificate, and \$5 million for Indigenous, multilingual, multicultural, and special education.

HFG/SEC/acv