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## FISCAL IMPACT REPORT

SPONSOR Nibert/Ezzell/Pettigrew LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 1/27/23  
SHORT TITLE Prioritizing NMMI Barracks Funding BILL NUMBER House Bill 146  
ANALYST Helms

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No fiscal impact**					

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

\*\* If HB146 becomes law, there will not be an immediate fiscal impact, however it may lead to \$10 million for capital improvements. See Fiscal Implications for more detail.

### Sources of Information

LFC Files

#### Responses Received From

Higher Education Department (HED)

#### No Response Received From

New Mexico Military Institute (NMMI)

## SUMMARY

### Synopsis of House Bill 146

House Bill 146 (HB146) amends Section 21-1-21 NMSA 1978 on capital expenditures to require the Higher Education Department (HED) prioritize the New Mexico Military Institute (NMMI) barracks when developing the department's recommendations for legislative funding. HB146 requires HED to promulgate rules complying with the changes. This would be effective for laws in FY24.

## FISCAL IMPLICATIONS

HB146 does not contain an appropriation. LFC analysis indicates while this bill is unlikely to have fiscal impact, if passed, NMMI has requested \$10 million for a capital improvement project related to barracks renovations. The bill is unlikely to have a fiscal impact because while it would require HED to prioritize consideration for barracks improvements at NMMI, it would not guarantee funding, nor would HB146 guarantee that NMMI would not develop other funding

sources for said improvements.

## SIGNIFICANT ISSUES

Comments from NMMI on HB146 indicate recent progress in understanding capital improvement requests with HED and within the legislative process will likely be sufficient to help NMMI address their capital improvement needs in regards to barracks renovations. LFC analysis notes provisions to prioritize a specific aspect of a specific higher education institute's capital outlay needs does not have precedent in statute.

HED analysis for HB146 notes:

The NMHED has promulgated rules in order to outline the processes and requirements by which the department follows the statutory authority given by the Legislature. The specific rule associated with this statute is NMAC 5.3.9 Capital Budgets - Planning and Funding Recommendations. This rule specifies when the department may recommend capital outlay funding packages that have been developed by public postsecondary educational institutions operating within and receiving financial support from the State of New Mexico. The rule generally restrains the department from recommending capital outlay funding packages that include state funding for auxiliary services with certain exceptions. The rule also deems certain projects ineligible for capital outlay recommendations by the department, including 'all auxiliaries, such as bookstores, golf courses, student unions, student housing, etc. further noting that capital outlay projects which are primarily used for these purposes are not eligible for state funding and are expected to be fully self-supporting and self-liquidating from revenues generated by their operations.' The rule does however carve out an exception to this general prohibition specifically for two-year colleges. The rationale for the exception is that two-year colleges usually do not have large-scale auxiliary enterprises which can provide an adequate revenue stream for financing auxiliary facilities. Therefore, there are three conditions that must be satisfied to enable a postsecondary educational institution to qualify for the exception: (1) that the auxiliary facilities constitute a portion of the capital projects submitted by the college; (2) that the college be a two-year college rather than a four-year college; and (3) that it has provided the required local match, as provided for in the rule.

The NMHED maintains that the current exceptions offered in the rule provide opportunity for New Mexico Military Institute (NMMI) to submit funding requests through the department for funding for the barracks. The change in statute as currently proposed is not necessary.”

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