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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/2020

SPONSOR Lente/Johnson/Allison LAST UPDATED \_\_\_\_\_ HB 137

SHORT TITLE Native American Projects SB \_\_\_\_\_

ANALYST Edwards

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
\$59,193.1		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$81.1	\$81.1	\$81.1	\$243.3	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)  
 Public Schools Facilities Authority (PSFA)  
 Department of Cultural Affairs (DCA)  
 Department of Information Technology (DoIT)  
 Higher Education Department (HED)

#### No Response Received

Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 137 appropriates \$59.2 million from the general fund to the Indian Affairs Department (IAD) for expenditure between FY20 through FY24 for library, internet access, and educational resource center projects for New Mexico's Tribes, Nations, and Pueblos. Remaining expenditures will revert to the Tribal Infrastructure Project Fund by FY24. The bill appears to be a response to New Mexico's education sufficiency lawsuit.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

## **FISCAL IMPLICATIONS**

The appropriation of \$59.2 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining shall revert to the Tribal Infrastructure Project Fund within six months of completion of the project but no later than FY24.

The total appropriation is divided into the following line items:

- 22 separate projects totaling \$38.9 million to plan, design, renovate, expand, construct, equip, and furnish the libraries of New Mexico's twenty-three tribes, nations, and pueblos
- \$4.6 million to provide for high-speed internet access and telecommunications for tribal schools and libraries and support for the Pueblo Education Network housed at the Santa Fe Indian School
- \$3.2 million to provide high-speed internet access on the Navajo Nation
- \$500 thousand to provide high-speed internet access on the Jicarilla Apache Nation
- \$2.5 million to establish a curriculum materials development center at the Navajo Technical University
- \$1.5 million for an early childhood practicum at the Navajo Technical University
- \$1.5 million for a curriculum materials development center at the Pueblo of Zuni
- \$1.5 million for a curriculum materials development center for Mescalero Apache Tribe;
- \$1.5 million for education resources centers for Navajo Nation's Dzil Diti'looi School of Empowerment, Action, and Perseverance Charter School;
- \$2.5 million for an Education Resources Center
- \$1 million for an early childhood center at the Pueblo of Jemez;

The Legislative Finance Committee (LFC) general obligation bond framework currently includes \$9.5 million for public school, public, academic, and tribal libraries for library resource acquisitions, information technology projects, and broadband internet equipment for libraries statewide. The LFC framework for severance tax bonds (STB) also includes \$500 thousand from STBs and \$500 thousand from the general fund for rural libraries. These sources of funds could cover some of the priorities listed in this bill. Additionally, funding is included in the LFC's public school support budget for the Indian Education Fund, Indigenous education initiatives, and culturally and linguistically diverse instructional materials and curriculum development needs that could be used to meet some of the goals of this bill. PSFA has budgeted \$3 million per year over the next four fiscal years as a match for federal e-rate funding to support its Broadband Deficiencies Correction Program; the match could generate tens-of-millions in federal e-rate matching funds.

The bill charges the Indian Affairs Department to administer the proposed projects for New Mexico's tribes, nations, and pueblos. Should the bill be signed by the governor, IAD would administer these funds similarly to the way capital outlay and tribal infrastructure funds are administered on a reimbursement basis. To best accommodate the increased workload and possible other increases in funding in the future, IAD would need an additional accountant position to assist in administering the funds, monitoring each project's progress, and assisting the

tribes, nations, and pueblos in completing reporting procedures. The new position would cost the department \$81.1 thousand per year. The bill does not contain funding for the department to accommodate the increased workload the bill would create for IAD.

The Indian Affairs Department “is in favor that any unexpended balances revert to the Tribal Infrastructure Fund as it ensures any unexpended funds are spent on future tribal infrastructure projects rather than reverting to the general fund.”

PSFA explains “tribal schools and libraries are eligible for E-rate (federal) funding. E-rate provides, on average, 80 percent-90 percent of the cost to upgrade broadband infrastructure. While tribal schools are not covered under PSFA’s Broadband Deficiencies Correction Program, the PSFA broadband team assisted and coordinated with the development of two successful broadband tribal consortia (Middle Rio Grande and Jemez-Zia) that took advantage of E-rate funding and improved broadband connectivity to schools and libraries for six pueblos. Further expansion and upgrades are needed for a functional network.”

### **SIGNIFICANT ISSUES**

The Legislative Finance Committee’s *Volume 1* budget document explains “on February 14, 2019, the 1st Judicial District Court issued a final ruling for the consolidated education sufficiency cases of *Martinez v. New Mexico* and *Yazzie v. New Mexico* that found state funding levels and distribution methods for public schools failed to provide a uniform and sufficient education for all school-aged children, particularly those at risk of falling academically behind. The court noted dismal test scores and postsecondary outcomes were caused by the lack of programs for at-risk students and English learners, enforcement of the Indian Education Act, and access to high-quality teachers and instruction. The court enjoined the state to provide schools with the resources (such as instructional materials, properly trained staff, and curricular offerings) necessary to give at-risk students the opportunity to be college and career ready by April 15, 2019. The court ordered the state to establish an accountability system that could measure the efficacy of programs and assure that local districts spent funds in a way that efficiently and effectively met the needs of at-risk students.”

The Higher Education Department (HED) submitted the following analysis:

Tribal libraries and educational resource centers perform diverse functions within tribal communities. These functions include: (1) providing afterschool tutoring, summer school, and extended learning programs and opportunities for students; (2) providing internet access to those who lack home broadband; (3) developing and providing tribal language instruction, cultural learning, and tribal archives; and (4) supporting and promoting digital learning opportunities, job training, entrepreneurship, and distant learning.

In 1975, tribal libraries were funded through a Library Services and Technology Act grant for nine tribal communities in New Mexico. Since that time, the number of tribal libraries/educational resource centers have increased to 19 through funding from the New Mexico Tribal Libraries Grants Program. In 2015, the New Mexico State Legislature passed HM 106 that recognized the value of tribal libraries and requested an assessment to address the most critical needs for construction and renovation of tribal library facilities.

If enacted, House Bill 137 will provide American Indian students with access to 21st century

technology and internet access at tribal libraries to help them achieve success at school. Most schoolwork today requires a computer and internet connection and requires some work to be done at the students' homes. The current access to computers and high-speed internet prevents many American Indian students from completing their homework assignments because of a lack of technology at home. Providing high-speed internet at tribal libraries for students to access will provide for a better learning future for American Indian students.

According to the American Libraries Association, nearly seven in every ten residents on rural tribal lands remain without internet and are cut off from education and economic opportunities compared to one in every four rural non-tribal Americans. Of the 5.4 million native americans in the U.S., 23 percent live below the poverty level and are unable to afford internet access, or a computer.

### **ADMINISTRATIVE IMPLICATIONS**

The Indian Affairs Department would need to hire an accountant at \$81.1 thousand per year to assist in administering the funds, monitoring each project's progress, and assisting the tribes, nations, and pueblos in completing reporting procedures.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to House Bill 138, House Bill 139, and House Bill 140.

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