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FISCAL IMPACT REPORT

SPONSOR Lente ORIGINAL DATE 1/28/2022
LAST UPDATED 2/2/2022 HB 90/aHEC
SHORT TITLE Appropriations for Yazzie Lawsuit SB _____
ANALYST Fischer

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
	\$29,004.0	Recurring	General Fund

Relates to HB82, HB87, HB89, and SB82
Duplicates and Relates to Appropriations in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

University of New Mexico (UNM)
New Mexico State University (NMSU)
Northern New Mexico College (NNMC)
Higher Education Department (HED)
New Mexico Independent Community Colleges

SUMMARY

Synopsis of HEC Amendment

The House Education Committee Amendment removes a \$550 thousand appropriation to the Institute for American Indian Education to establish a technical assistance center to support tribes and tribal education departments.

Synopsis of Original Bill

House Bill 90 appropriates \$29.6 million from the general fund to four state colleges and three tribal colleges for 53 initiatives in eight areas to comply with the court's rulings in the consolidated *Martinez and Yazzie v. New Mexico* 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 appropriations of \$29 million contained in this bill are a recurring expense to the general fund. Although House Bill 90 does not specify future appropriations, establishing new and expanding programs at colleges and universities could create an expectation that the program will continue in future fiscal years; therefore, the costs are scored as recurring.

House Bill 90 provides 53 appropriations for different new and expanded initiatives at

- University of New Mexico (\$15,675,230);
- New Mexico State University (\$950 thousand);
- New Mexico Highlands University (\$3,075,000);
- Northern New Mexico College (\$950 thousand),
- Navajo Technical University (\$4,177,800);
- Dine College (\$3.8 million); and
- Southwestern Indian Polytechnic Institute (\$926 thousand).

House Bill provides appropriations to these institutions across eight subject areas, each with its own section of the bill:

- Section 1. Native teacher and educational administrator pipeline (\$8,566,000)
- Section 2. Indigenous curriculum development (\$1.5 million)
- Section 3. Indigenous technical assistance centers (\$1.55 million)
- Section 4. Health and social services development for Native American K-12 students (\$4,517,000)
- Section 5. College and career readiness programs and services for Native American students (\$5,718,000)
- Section 6. Tribal education capacity building assistance (\$1,827,000)
- Section 7. Culturally and linguistically responsive education framework (\$4,526,000)
- Section 8. Digital inclusion (\$1.35 million)

Any unexpended or unencumbered balances from appropriations made to the University of New Mexico at the end of the fiscal year 2024 revert to the general fund. For appropriations to all other institutions, any unexpended or unencumbered balances revert to the general fund at the end of the fiscal year 2023.

SIGNIFICANT ISSUES

The FY23 LFC budget recommendation for higher education institutions includes \$2.25 million in flexible categorical funding for tribal education initiatives at state two-and four-year institutions with significant Native American student populations. Additionally, the FY23 LFC and executive budget recommendations include duplicate or provide similar funding for many of the initiatives in House Bill 90. Table 1 denotes the flexible funding and research and public services projects in the LFC and executive budget recommendations.

Table 1. FY23 Higher Education Funding Recommendations to Address Martinez-Yazzie Lawsuit
(in thousands)

Categorical / Project Funding Recommendation	LFC	Executive
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HED	For bilingual teacher preparation programs	\$ 45.6	\$ 45.6
HED	Flexible for tribal education initiatives at tribal colleges	\$ 500.0	
HED	For dual credit at tribal colleges	\$ 263.9	\$ 263.9
HED	For the nursing program at NTU	\$ 216.0	\$ 216.0
Subtotal HED / Tribal Colleges		\$ 1,025.5	\$ 525.5
UNM	Flexible for Tribal Education Initiatives	\$ 1,150.0	\$ -
UNM	Chicano Studies	\$ 325.0	\$ 266.2
UNM	Institute for American Indian Education	\$ -	\$ 250.0
UNM	HED Minority Doctoral Assistance Program	\$ 19.2	\$ 19.2
UNM	Native American Studies	\$ 250.0	\$ 250.0
UNM	Flexible for Student Support Services & African American student services & minority student services & student mentoring program	\$ 3,213.7	\$ 946.6
UNM	Southwest Indian Law Clinic	\$ 185.4	\$ 185.4
UNM	Flexible for teacher pipeline initiatives	\$ 100.0	\$ -
UNM	Africana Studies	\$ 273.5	\$ 273.5
UNM	American Indian Summer Bridge Program	\$ 250.0	\$ 100.0
UNM HSC	HSC office of diversity, equity and inclusion	\$ 125.6	\$ 125.6
UNM HSC	Native American Health Center	\$ 240.5	\$ 240.5
UNM HSC	Native American Suicide Prevention	\$ 88.1	\$ 88.1
Subtotal UNM		\$ 6,221.0	\$ 2,745.1
NMHU	Flexible for Tribal Education Initiatives	\$ 200.0	\$ -
NMHU	Flexible for Student Support Services	\$ 186.9	\$ -
NMHU	Native American Social Work Institute	\$ 209.9	\$ 209.9
NMHU	Minority Student Services	\$ 487.7	\$ 487.7
Subtotal NMHU		\$ 1,084.5	\$ 697.6
NMSU	Flexible for Tribal Education Initiatives	\$ 300.0	\$ -
NMSU	Indian Resources Development	\$ 255.7	\$ 255.7
NMSU	Flexible for Student Support Services	\$ 1,515.1	\$ -
Subtotal NMSU		\$ 2,070.8	\$ 255.7
NNMC	Flexible for Teacher Pipeline	\$ 250.0	\$ -
NNMC	Native American Student Center	\$ 150.0	\$ -
NNMC	Flexible for Student Support Services	\$ 68.5	\$ -
Subtotal NNMC		\$ 468.5	\$ -
GRAND TOTAL		\$ 10,870.3	\$ 4,223.9

Source: LFC Files

The Higher Education Department and the Legislative Finance Committee have a formal process for reviewing earmarked budget requests from the higher education institutions when developing institutional funding recommendations. For accountability and oversight purposes, staff generally recommend that funding requests for new higher education programs be vetted through that process.

Appropriations to the tribal colleges in House Bill 90 would represent significant increases to their budgets, and as such, the institutions may have difficulty implementing all initiatives within one year.

HB 90 Appropriations as a Percent of Total Revenue at Tribal Colleges
(in thousands)

College	2020 Revenues	HB 90 Appropriation	Appropriation as a percent of revenues
Dine College	\$41,240.9	\$3,800.0	9.2%
Navajo Technical University	\$37,830.9	\$4,177.8	11.0%
Southwestern Indian Polytechnic Institute	\$18,896.0	\$926.0	4.9%

Source: IPEDS

Similarly, the University of New Mexico (UNM) expressed concern about the amount of funding appropriated to the University in House Bill 90 and the two-year time span given to the university to grow these programs. UNM stated that “ramping up at this rate of speed without careful planning and sustained support seldom leads to quality outcomes.”

New Mexico State University’s response to House Bill 90 requested that the appropriations to the university be through fiscal year 2025, as they are with the appropriations for the University of New Mexico and be significantly increased from a total of \$950 thousand to \$3 million. As justification for the request, NMSU noted that the funds provided in HB90 would begin to address several issues in the University’s College of Health, Education, and Social Transformation American Indian graduate degree programs, career development, and “ethnic studies” programs on campus. However, the university also noted that the lower amount and scope might not be able to provide the substantive change over time that the lawsuit calls for.

There are no appropriations included in this bill for some New Mexico higher education institutions with significant proportions or high numbers of Native American students and educator preparation programs, including San Juan College, Eastern New Mexico University – Ruidoso, and Central New Mexico Community College.

PERFORMANCE IMPLICATIONS

Staff recommends associated language requiring collection and reporting of performance data for the framework to include the number of Native American teachers working in public schools and the number of Native American public school students demonstrating proficiency or nearing proficiency in their native language. This information is necessary to track programs addressing the implementation of the Indian Education Act and findings from the *Martinez-Yazzie* lawsuit.

RELATIONSHIP

House Bill 87, which distributes the Indian education fund to tribes; House Bill 88, which distributes the Indian education fund to tribal education departments, libraries, and other programs; House Bill 89, which appropriates \$89.4 million from the general fund to the Indian Affairs Department for educational initiatives; and, Senate Bill 82 which appropriates \$50 thousand to support an international academic and cultural program for indigenous students.