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FISCAL IMPACT REPORT

SPONSOR Lopez/Pope/Sedillo ORIGINAL DATE 1/28/22
Lopez LAST UPDATED _____ HB _____
 SHORT TITLE Yazzie Lawsuit Plan & Reporting SM 12
 ANALYST Gaussoin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY22 | FY23 | FY24 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | NFI | NFI | NFI | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates House Memorial 12
 Relates to House Bills 88, 89, and 90 and appropriations in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)
 Early Childhood Education and Care Department (ECECD)

No Response Received

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

SUMMARY

Synopsis of Memorial

Senate Memorial 12 (SM12) requests the Public Education Department (PED) to develop a comprehensive plan to address the needs of Native American students, English learners, students with disabilities, and low-income students—students at risk of failing as identified in the *Martinez-Yazzie* education sufficiency lawsuit—and report annually to the Legislature on progress on the plan. The memorial asks PED to work with the *Martinez-Yazzie* plaintiffs and build on work already done by tribal groups. SM12 also calls for PED to work with HED on efforts to address the statewide teacher shortage.

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The plan, due no later than June 1, 2022, would include short- and long-term goals and action to steps to address the insufficiencies listed in the *Martinez-Yazzie* district court ruling, timeframes, staffing, projected funding needs, and accountability measures.

There is no effective date in the memorial. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

Memorials do not contain appropriations and, because PED already receives funding annually to address the findings of the *Martinez-Yazzie*, is unlikely to have any fiscal impact on PED.

The Higher Education Department (HED), in analysis of the identical House Memorial 12, reports it needs to review its requirements under the memorial further before determining the fiscal impact; however, the department likely can address its requirements within existing resources.

SIGNIFICANT ISSUES

SM12 notes 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. Although PED did not provide analysis for this memorial, the Early Childhood Education and Care Department (ECECD) notes in its response on House Memorial 12 that PED is already working on a plan, and its progress toward addressing the court's findings is already monitored by the court.

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 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.

PERFORMANCE IMPLICATIONS

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

ADMINISTRATIVE IMPLICATIONS

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

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 88 would appropriate \$21.5 million to the Indian education fund for tribal education departments and tribal libraries.

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 General Appropriation Act of 2022, still being developed, is likely to include a variety of appropriations for tribal education, bilingual and multicultural education, and the education of at-risk students. The LFC budget recommendation included an expansion of 18 FTE for PED with the expectation the additional positions could be used to address the court findings.

HFG/al/acv