

<b>LFC Requester:</b>	<b>Liu</b>
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**AGENCY BILL ANALYSIS  
2021 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/28/2021  
**Bill No:** HB85

**Agency Name and  
Code Number:**    PED - 924

**Sponsor:**    Rep. Derrick J. Lente

**Short  
Title:**    YAZZIE LAWSUIT RESPONSE  
FUNDING

**Person Writing:**    John Sena  
**Phone:**    505-570-7816    **Email:**    John.Sena@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	\$22,700.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	Unknown	Unknown	Unknown	Nonrecurring	Possibly will impact IAD's operating budget

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB29, No School Discrimination for Hair; HB52, Bilingual Multicultural Ed Advisory Council; HB84, Native Language Education Program Unit; HB86, Native American Library, Internet & Education; HB87, Yazzie Lawsuit Higher Ed Funding; HB135, School Opportunity & Equity Index; SB41, School Funding Changes; and SB80, No School Discrimination for Hair.  
Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 85 (HB85) proposes an appropriation from the general fund to the Indian Affairs Department (IAD) for the following amounts for expenditure in FY21 and FY22:

- (1) \$5.75 million for tribal education departments (TEDs) to fully develop and implement education blueprints and governance structures to serve the state's American Indian students;
- (2) \$3.4 million for TEDs to develop early childhood education (ECE) culturally and linguistically relevant (CLR) curriculum, to design CLR assessment tools and culturally appropriate student, teacher and program evaluation instruments, to conduct needs assessments of early childhood education facilities, and to develop plans for constructing needed facilities;
- (3) \$5.75 million for tribal libraries to develop and staff CLR after-school, extended student services, and community-based summer school programs;
- (4) \$3.4 million for Native language programs to plan and develop programs; recruit, train, and certify language teachers; provide staff development; coordinate curriculum and materials development; develop culturally and linguistically appropriate student, teacher, program assessments, and evaluation; and
- (5) \$3.4 million to create, develop, and staff information technology (IT) departments to increase support network operations and user access to high speed internet connections for tribal education departments and other tribal education entities and to create IT internships to grow tribal IT workforces.

Additionally, HB85 proposes an appropriation from the general fund to the Board of Regents for the University of New Mexico (UNM) for expenditure in FY22 and FY23 to prepare a statewide, long-range IT comprehensive plan for tribal communities and Native American students.

The Public Education Department’s (PED) analysis of this bill focuses on the implications for Native American students of the proposed legislation.

## FISCAL IMPLICATIONS

HB85 would appropriate a total of \$22.7 million from the general fund to IAD and the Board of Regents for UNM for expenditure in FY22 and FY23, see Table 1, below. Any unexpended or unencumbered balance remaining at the end of FY23 shall revert to the general fund.

**Table 1 – HB85 Proposed Expenditures by Tribe, Nation, and Pueblo\***  
(dollars in thousands)

Tribe, Nation, or Pueblo	Education blueprints & Governance structures	ECE CLR & Facilities development	Tribal Libraries & CLR programs	Native language programs, Teacher recruitment, & CLR development	Tribal IT departments & Workforces	Overall Totals for Each Tribe, Nation, & Pueblo
Jicarilla Apache Nation	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Mescalero Apache Tribe	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Navajo Nation	\$500	\$250	\$500	\$250	\$250	<b>\$1,750</b>
Pueblo of Acoma	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Cochiti	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Isleta	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Jemez	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Laguna	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Nambe	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Ohkay Owingeh	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Picuris	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of San Felipe	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of San Ildefonso	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Santa Ana	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Santa Clara	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Santo Domingo	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Taos	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Tesuque	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Zia	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>
Pueblo of Zuni	\$250	\$150	\$250	\$150	\$150	<b>\$950</b>

\*Does not include the proposed appropriation for the Board of Regents for UNM

Additionally, the executive’s FY22 budget recommendation includes \$30 million (\$15 million over two years) for the tribal remedy framework, which would be used to support education efforts in the state’s tribal communities. The appropriation would support implementation of the tribal remedy framework, support tribal sovereignty, and provide resources for locally determined needs.

The executive’s FY22 budget recommendation also includes an interagency transfer from the

PED to IAD of \$1 million, which comes from PED's request for indigenous, multilingual, multicultural, and special education, for TEDs to develop early childhood CLR curriculum, to design CLR assessment tools, and culturally appropriate teacher and program evaluation instruments, to conduct needs assessments of ECE facilities, and to develop plans for constructing needed facilities.

## **SIGNIFICANT ISSUES**

If enacted, HB85 would potentially assist in building educational infrastructure in tribal communities to support student learning and academic achievement. Much of the educational infrastructure proposed in the bill could assist in improving student academic achievement for Native American students. However, many of the proposed actions would be directed at TEDs, and it is unclear whether they would impact Native American students in the public school setting. The educational infrastructure proposed in the bill could assist Native American students in gaining skills necessary for mainstream academic success as well as the development of knowledge and skills in their home cultures and tribal languages.

HB85 proposes to fund six distinct areas for tribes, nations, and pueblos to ultimately benefit Native American students in the state, including:

- (1) education blueprints and governance structures;
- (2) ECE CLR and facilities development;
- (3) tribal libraries and CLR programs;
- (4) Native language programs, teacher recruitment, and CLR; and
- (5) tribal IT departments and workforces, and statewide IT plan.

### Education blueprints and governance structures

For any education system to be successful, it is critical to create and implement education plans that span from ECE to postsecondary opportunities. In the creation and development of these plans, it is essential governance structures are in place to ensure success of the overall education system. HB85, would allocate funds for each tribe, nation, and pueblo to develop and implement education blueprints and governance structures based on what they determine is best for their tribal students. The funding would allow for locally-driven, tribally-created, and community-based decision making through education plans, potentially focused on the overall academic, cultural, and tribal language needs of the tribal students. Building capacity at the tribal level in TEDs is essential to ensuring tribes, nations, and pueblos have the personnel needed to meet the provisions of HB85. All tribes, nations, and pueblos in New Mexico have a tribal education department; however, the size and overall operation of the TED can range from one individual TED director to over 100 employees focused specifically on tribal education.

Additionally, the proposed funding in HB85 allows tribes, nations, and pueblos the opportunity to meet with and work in collaboration with school districts and charter schools as each tribe, nation, or pueblo develops its education blueprint. TEDs working with various school districts, bridging cultural differences, and reconciling differences about what is the best practice or best method to improve Native American education, can only help each tribe, nation, and pueblo to develop a comprehensive plan to prepare its tribal students to succeed in their education and career.

### ECE CLR and facilities development

In FY21, the PED, the IAD, and the Early Childhood Care and Education Department (ECECD) worked in collaboration to develop and implement a request for application (RfA) process that

focused, among other things, on ECE CLR and facilities development. The IAD received a \$1 million interagency transfer from the PED for this specific initiative. Through this process, each tribe, nation, and pueblo in the state was able to determine how funds would be used to meet each tribal government's local, unique educational needs.

#### Tribal libraries and CLR programs

As of 2016, the New Mexico State Library serves and supports at least 18 tribal libraries through its Tribal Libraries Program (TLP). The TLP provides continuing educational opportunities, funding, leadership, and consulting services to library directors and staff that serve tribes, nations, and pueblos across the state. Typically, tribal libraries do all the things traditional libraries do; however, they often play a more active and involved role in the cultural and language preservation for their tribal communities. For example, at the San Felipe Community Library, the library director may lead story time for tribal children in Keres, the traditional language of the community; while at the Pueblo of Santo Domingo, the library director may work closely with the Head Start program as well as conduct weekly outreach that support early literacy for the tribal community. Additionally, other tribal libraries may build digital archives organizing language material, tribal history, and photographs. Thus, tribal libraries serve as a crucial gathering place for all ages to learn about tribal culture, traditional languages, and tribal history.

#### Native language programs, teacher recruitment, and CLR

The PED's Indian Education Division (IED) allocates funds from the Indian Education Fund to tribes, nations, pueblos, school districts, and charters related to tribal language programs annually. According to the Tribal Education Status Report for the 2019-2020 school year, IED allocated approximately \$1.9 million in grants to tribes, nations, and pueblos for tribal language programs. Specifically, grants were awards to tribes, nations, and pueblos to develop programs in at least one of four the following priority areas: (1) college, career, and life readiness; (2) CLR education and social and emotional learning; (3) culture and identity development; and (4) increasing access to Native American language programs.

#### Tribal IT departments and workforces and Statewide IT comprehensive plan

Across the nation, the majority of people have internet access readily available. However, there is a digital divide in states, such as New Mexico, that are rural, and on Native American reservations where access to internet is limited or nonexistent. A lack of access to the internet and a reliable device can hinder a student's educational attainment. Some research indicates that students who have access to a home device such as a computer are more likely to graduate from high school than their peers who do not have a home computer. To assist in closing the digital divide, the PED's IED purchased and distributed in FY20 the following wireless technology devices and equipment: 700 residential hotspots (Navajo Nation); 101 CradlePoint fixed and mobile hotspots for teacherages, chapter houses, inside buildings, buses, and indoor antennas (all tribes, nations, and pueblos); and 6,282 Chromebooks (all tribes, nations, pueblos, and schools with a significant Native American student population).

Additionally, the executive's FY22 budget recommendation includes \$10 million for statewide digital access for students. This proposal would continue efforts to ensure every student has a device and the connection needed to use it, so that they can access digital content and instruction, both during the health pandemic and in the future.

### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

HB85 does not contain any specific administrative implications for the PED.

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

HB85 relates to HB29, No School Discrimination for Hair; HB52, Bilingual Multicultural Ed Advisory Council; HB84, Native Language Education Program Unit; HB86, Native American Library, Internet & Education; HB87, Yazzie Lawsuit Higher Ed Funding; HB135, School Opportunity & Equity Index; SB41, School Funding Changes; and SB80, No School Discrimination for Hair.

#### **TECHNICAL ISSUES**

N/A

#### **OTHER SUBSTANTIVE ISSUES**

The funding proposed under HB85 are similar to funding requests made by the Tribal Education Alliance through its 2020 tribal remedy framework. Specifically, the framework requested approximately \$95 million to support Native American education initiatives in response to the findings from the Martinez and Yazzie consolidated lawsuit.

#### **ALTERNATIVES**

N/A

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

N/A

#### **AMENDMENTS**

N/A