

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/22

SPONSOR Lente LAST UPDATED \_\_\_\_\_ HB 89

SHORT TITLE Tribal Educational Resource Projects SB \_\_\_\_\_

ANALYST Liu

### APPROPRIATION (dollars in thousands)

| Appropriation |            | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|------------|------------------------------|------------------|
| FY22          | FY23       |                              |                  |
|               | \$89,361.9 | Nonrecurring                 | General Fund     |

(Parenthesis ( ) Indicate Expenditure Decreases)

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

|              | FY22 | FY23   | FY24   | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|--------|--------|----------------------|------------------------------|------------------|
| <b>Total</b> |      | \$81.1 | \$81.1 | \$162.2              | Recurring                    | General<br>Fund  |

Relates to HB60, HB61, HB87, HB88, HB90

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)

Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 89 appropriates \$89.4 million from the general fund to Indian Affairs Department (IAD) for expenditure in FY23 through FY26 for the following purposes:

- \$66.7 million to plan, design, renovate, expand, construct, equip, and furnish libraries and education centers statewide for Indian nations, tribes, and pueblos;
- \$2.5 million for a curriculum and materials development center at Navajo Technical University (NTU);
- \$1.5 million for an early childhood center at NTU;
- \$1.5 million for a curriculum and materials development center at the Pueblo of Zuni;

- \$3.7 million for a college and career readiness center at the Pueblo of Zuni;
- \$1.5 million for a curriculum and materials development center at the Mescalero Apache Tribe;
- \$1.5 million for an education resource center at the Dzil Diti'looi School of Empowerment, Action, and Perseverance (DEAP) state-authorized charter school;
- \$2.5 million for an education resource center for the Pueblo of Jemez; and
- \$8 million for the Kewa Child Care and Development Center.

Any unexpended or unencumbered balance for these projects will revert to the tribal infrastructure project fund (TIF) within six months of completion of the project but no later than FY26.

## FISCAL IMPLICATIONS

The appropriation of \$89.4 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 or within six months of project completion shall revert to TIF. Construction and renovation of tribal libraries and education centers may increase recurring costs to operate and maintain facilities in future fiscal years. An IAD analysis of a similar bill from the 2021 legislative session notes the department would need an additional FTE at \$81.1 thousand per year to administer the grants.

Laws 2021 (2<sup>nd</sup> Special Session), Chapter 4, appropriated \$10 million to PED (later transferred to IAD) to plan, design, construct, renovate, and equip libraries and broadband infrastructure for Native American communities. Currently, PED is in the process of transferring the \$10 million appropriation to IAD for allocation to tribal libraries and broadband projects. A 2021 LFC analysis of tribal library projects found only three pueblos had completed professional estimates or facility designs for new library construction or renovation (See Attachment 1), suggesting most tribal library projects in this bill may require additional planning.

Provisions of this bill would revert unspent balances to TIF. TIF awards go to projects such as water, electrical, communications, roads, and health infrastructure. TIF awards have included early childhood learning centers, social service complexes, and power line extensions. Qualified expenses include engineering, environmental studies, and land acquisition. Recipients undergo a competitive application process, review, and board approval. TIF funds have been fully awarded in past years, with multiple applications denied.

## SIGNIFICANT ISSUES

***Tribal libraries.*** The bill would allocate \$66.7 million for tribal libraries. Tribal libraries received \$750 thousand for capital outlay in 2018 and \$500 thousand in 2021 through general obligation bonds (GOB). As of October 2021, two tribal libraries had spent \$49.4 thousand of the 2018 GOB (6.6 percent). In comparison, nontribal libraries had spent \$1.6 million of their \$4 million 2018 GOB (40.9 percent). Tribal and nontribal libraries have not yet expended 2021 GOB but have until April 1, 2022, to spend down the 2018 GOB. Tribal stakeholders note GOB funds must be used for acquisitions and equipment and underspending may be attributable to restrictive requirements, lack of space, or lack of capacity to deliver up-to-date technologies and services.

**Education centers.** The bill would help construct, expand, or equip tribal education facilities to serve students from prekindergarten to college. The bill would also provide appropriations for an early childhood educator training facility at NTU to train early childhood professionals in culturally and linguistically relevant methods.

Despite receiving \$9 million in FY21 for the development of culturally and linguistically responsive instructional materials and curriculum, PED did not report expenditures for the development of Native American materials or curriculum. The department budgeted \$1.5 million of the appropriation for indigenous material and curriculum development but noted very few entities applied for the funding.

### **PERFORMANCE IMPLICATIONS**

Due to school closures during the Covid-19 pandemic, students without internet or digital devices had limited access to educational services. On May 18, 2021, the 1<sup>st</sup> Judicial District Court issued a ruling in the *Martinez* and *Yazzie* consolidated education sufficiency lawsuit ordering PED to immediately provide students in the 23 focus plaintiff school districts with devices, connectivity, and sufficient IT staff support. According to PED, the tribes, nations, and pueblos in the state lack sufficient internet infrastructure to deliver educational services adequately. Tribal libraries and educational resource centers could serve as hubs for internet access and help the state meet performance targets on internet connectivity and device access for students.

According to PED, building educational infrastructure in tribal communities could support student learning and academic achievement. Community-based libraries and educational resource centers provide spaces and opportunities for extended learning, after school enrichment and tutoring, and summer school. The infrastructure would help Native American students who need additional academic support, particularly those that lack transportation, attend school-based classes or activities. Community-based libraries and educational resource centers could also provide culturally relevant materials that help students learn mainstream academic content and develop knowledge and skills from home cultures and tribal languages.

### **ADMINISTRATIVE IMPLICATIONS**

IAD would administer appropriations in this bill in a similar way as capital outlay and tribal infrastructure projects are administered on a reimbursement basis. Currently, IAD has 17 FTE, including 6 FTE in the administrative services division that allocates over \$202 million in capital outlay and TIF funds.

IAD notes provisions of this bill would necessitate additional FTE to administer funds. These positions would be responsible for distributing funds, monitoring project progress, and assisting tribes in completing reports. The department would administer funds on a reimbursement basis, like capital outlay and tribal infrastructure projects.

### **RELATIONSHIP**

This bill relates to House Bill 60, which requires public schools to pay Native language teachers a level 2 teacher salary; House Bill 61, which allows the Early Childhood Education and Care Department (ECECD) to enter into joint powers agreements with tribal governments; 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; and House Bill 90, which allocates funding to higher education institutions for tribal programs.

## **OTHER SUBSTANTIVE ISSUES**

In FY21, PED, IAD, and ECECD provided \$1 million to the state’s tribes, nations, and pueblos to develop plans for early childhood education, culturally and linguistically responsive instruction, and facilities development.

According to PED, tribal libraries function similarly to traditional libraries but 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 supports early literacy for the tribal community. Additionally, other tribal libraries may build digital archives organizing language material, tribal history, and photographs. Tribal libraries serve as a gathering place for all ages to learn about tribal culture, traditional languages, and tribal history.

## **ALTERNATIVES**

The executive’s FY23 budget recommendation provides \$9.75 million to the Indian education fund to support education efforts in tribal communities in the state. The appropriation would support Indian Education Act implementation grants, fund the development of education blueprints and governance structures, and provide resources for locally-determined needs.

The executive recommendation also includes \$10.25 million for collaborations and partnerships with tribal education departments (TEDs), tribal communities, and tribal education institutions. Through these state-tribal partnerships, TEDs have the opportunity to build the internal capacity to meet the educational needs of each tribal community in the state. The funding proposal promotes a shared responsibility for the education of tribal students by relying on TEDs as experts while at the same time upholding the premise of tribal education sovereignty.

LFC’s FY23 budget recommendation includes \$41.2 million for TED operational capacity, tribal library operations, Native language programs, professional development, early childhood grants, higher education initiatives, and community-based extended learning time programs for Native American communities. These operational funds will build up capacity within tribes, nations, and pueblos to plan, design, and determine the educational needs of each local community.

Attachment

1. HB0089 Attachment 1 Tribal Library and Education Center Capital Request

SL/av/rl

### Tribal Library and Education Center Capital Request

|               | TEA Requested Projects (2020 & 2021)       |  |                              |                            |                      |                      | Current Operating and Building Capacity |   |   |                             |              |                         |  |   |                               |  |
|---------------|--|--|------------------------------|----------------------------|----------------------|----------------------|---|---|---|-----------------------------|--------------|-------------------------|--|---|-------------------------------|--|
|               | Request                                    | Plan and Design Complete               | Original Amount HB137 (2020) | Revised Amount HB87 (2021) | Children Ages 5-19   | TEA Cost per Student | Current Facility                        | Construction Funding                            | Age                                     | Current Staff               | Staff Needed | Current Users Per Year  | Computer Access at Existing Library            | Library ISP & Download/Upload Speed (Mbps)*     | Community Anchor Institutions |  |
| 1             | Acoma Learning Center                      | New Construction                       | Professional Estimate        | \$ 4,200,000               | \$ 4,500,000         | 647                  | \$ 6,955                                | Modular Building                                | State and Tribal Funds                  | 12                          | 2 FTE        | TBD                     | 1926 (982 K-12 students)                       | 15 stations; 9 laptops                          | Sacred Wind (200/200)         | Library, Community Center, Fast Food                             |
| 2             | Pueblo de Cochiti Public Library           | Renovation, Expansion                  | Professional Estimate        | \$ 975,000                 | \$ 1,300,000         | 387                  | \$ 3,359                                | Library   | State Funds, and County GOB             | 25 (updated in 2000 & 2016) | 1 FTE        | 2 FTE                   | 3,805 visitors; 150 to 175 (110 K-12 students) | 18 stations (5 for browsing); Wi-Fi             | MRGPTC (100/100)              | Library, School 6 miles away                                     |
| 3             | Pueblo of Isleta Public Library            | Renovation                             | No                           | \$ 1,500,000               | \$ 1,500,000         | 816                  | \$ 1,838                                | Library shared with DOE                         | State and Tribal Funds                  | 8                           | 4 FTE, 3 PT  | Additional summer staff | NR   | 22 stations, Wi-Fi                              | CenturyLink (100/100)         | Library and Adjacent School, Community Center, Fast Food, Casino |
| 4             | Jemez Pueblo Community Library             | New Construction Renovation, Expansion | No                           | \$ 500,000                 | \$ 2,500,000         | 489                  | \$ 5,112                                | Library retrofit shared with DOE                | IMLS and State Funds                    | 30                          | 2 FTE        | TBD                     | 15,000 (7,900 K-12 students)                   | 21 stations, Wi-Fi                              | JZPTC (100/100)               | Library, Town of Bernalillo                                      |
| 5             | Laguna Public Library                      | Renovation, Expansion                  | Design Complete (2018)       | \$ 658,122                 | \$ 697,607           | 774                  | \$ 901                                  | Library shared with museum/archive              | State and Tribal Funds                  | 22                          | 3 FTE        | 1 PT                    | 9000   | 10 stations, 8 laptops, 8 hotspots, Wi-Fi       | CenturyLink (25/10)           | Library, Four Computer Labs, Casino, Travel Center               |
| 6             | Nambe                                      | NR                                     | NR                           | \$ 1,100,000               | \$ 1,100,000         | 317                  | \$ 3,470                                | NR  | NR                                      | NR                          | NR           | NR                      | NR   | NR  | NR                            | NR   |
| 7             | P'oe Tsawa Community Library Ohkay Owingeh | New Construction Renovation, Expansion | No                           | \$ 1,700,000               | \$ 5,100,000         | 1218                 | \$ 4,187                                | Library retrofit shared with DOE                | IMLS Funds                              | 15                          | 1 FTE, 1PT   | 0                       | 13,385 (6,903 K-12 students)                   | 15 stations, 10 laptops, Wi-Fi                  | Redinet (40/40)               | Library, Community School  |
| 8             | Picurias                                   | NR                                     | NR                           | \$ 1,100,000               | \$ 1,100,000         | 324                  | \$ 3,395                                | NR  | NR                                      | NR                          | NR           | NR                      | NR   | NR  | NR                            | NR   |
| 9             | Pueblo of Pojoaque Public Library          | New Construction                       | No                           | \$ 1,500,000               | \$ 4,500,000         | 675                  | \$ 6,667                                | Library retrofit with Wellness Center           | ICDBG, State, and Tribal Funds          | 21                          | 3 FTE, 1PT   | 0                       | 16,704 (3,341 K-12 students)                   | 11 station, Wi-Fi                               | Redinet (30/30)               | Library , Fast Food  |
| 10            | Sandia Pueblo Learning Resource Center     | New Construction Renovation, Expansion | No                           | \$ 910,000                 | \$ 910,000           | 72                   | \$ 12,639                               | Library retrofit                                | State and Tribal Funds                  | 90 (updated in 1996)        | 1FTE         | 1PT                     | 3068 (1617 K-12 students)                      | 8 stations, 6 laptops, Wi-Fi                    | CenturyLink (10/5)            | Library, DOE programs  |
| 11            | Pueblo of San Felipe Community Library     | New Construction, Renovation           | No                           | \$ 2,000,000               | \$ 2,000,000         | 979                  | \$ 2,043                                | Library retrofit                                | County GOB (original funds unknown)     | 12 (updated in 2014-16)     | 1 FTE, 2PT   | 1PT                     | 9377 (623 K-12 registered users)               | 12 stations, 12 laptops, Wi-Fi                  | MRGPTC (100/100)              | Library, Casino, Travel Center                                   |
| 12            | Pueblo of San Ildefonso Library            | Expansion                              | No                           | \$ 500,000                 | \$ 2,400,000         | 367                  | \$ 6,540                                | Library constructed as Learning Center          | HUD Housing, GO Bonds, and Tribal Funds | 12                          | 3 FTE, 3PT   | 1 FTE                   | 4000   | 16 stations, 5 laptops, Wi-Fi                   | Cellular One (200/200)        | Library  |
| 13            | Santa Ana Pueblo Community Library         | New Construction                       | No                           | \$ 1,500,000               | \$ 3,000,000         | 131                  | \$ 22,901                               | Library shared with DOE and other Tribal Depts. | NR                                      | 45                          | 1 FTE        | NR                      | NR   | 12 stations, 20 iPads                           | Century Link (10/5)           | Library, Communitywide Wi-Fi, Wellness Center, Community Center  |
| 14            | Santa Clara Pueblo Community Library       | NR                                     | NR                           | \$ 2,500,000               | \$ 2,650,000         | 2194                 | \$ 1,208                                | NR  | NR                                      | NR                          | NR           | NR                      | NR   | Redinet (200/200)                               | NR                            |  |
| 15            | Santo Domingo Public Library               | New Construction                       | No                           | \$ 3,000,000               | \$ 5,100,000         | 746                  | \$ 6,836                                | Library shared with community center            | Non-Profit Grant                        | 50                          | 1 FTE 2 PT   | 2 FTE                   | 3,805 (1,902 K-12 students)                    | 10 stations, Wi-Fi                              | MRGPTC (100/100)              | NR   |
| 16            | Taos                                       | New Construction                       | No                           | \$ 2,000,000               | \$ 2,400,000         | 898                  | \$ 2,673                                | No Current Library                              | NA                                      | NA                          | 3 FTE        | NA                      | NA   | NA  | NA                            | Red Willow Learning Center                                       |
| 17            | Taysugeh Oweengeh Library (Tesuque)        | New Construction Renovation, Expansion | No                           | \$ 1,500,000               | \$ 1,500,000         | 187                  | \$ 8,021                                | Library   | NR                                      | 15                          | 2 FTE        | 1 FTE                   | 4000   | 3 stations, 6 laptops                           | Redinet (30/30)               | Library  |
| 18            | Zia Enrichment Library                     | Renovation                             | No                           | \$ 1,100,000               | \$ 1,100,000         | 246                  | \$ 4,472                                | NR  | NR                                      | NR                          | 1 FTE        | More needed             | TBD  | 8 stations, 5 laptops (thru Dept. of Ed), Wi-Fi | JZPTC (100/100)               | Library, Tribal Administration Building                          |
| 19            | Zuni Public Library                        | New Construction                       | No                           | \$ 4,500,000               | \$ 5,100,000         | 2448                 | \$ 2,083                                | Library retrofit                                | NR                                      | 100                         | 3 FTE        | 1PT                     | 13,385 (6,903 K-12 students)                   | 8 Stations, 10 laptops                          | Century Link (30/30)          | Library, Community College                                       |
| 20            | Torreon Community Library                  | New Construction                       | No                           | \$ 1,200,000               | \$ 5,100,000         | 510                  | \$ 10,000                               | Modular Building                                | NR                                      | 15                          | 1 FTE, 1 PT  | TBD                     | 350 (100 K-12 students)                        | Donated computers not operational, 2 laptops    | ViaSat (35/35)                | Library, Cuba Public Library                                     |
| 21            | Jicarilla Public Library                   | NR                                     | NR                           | \$ 650,000                 | \$ 650,000           | 943                  | \$ 689                                  | NR  | NR                                      | NR                          | NR           | NR                      | NR   | Windstream (100/100)                            | NR                            |  |
| 22            | Mescalero Community Library                | New Construction                       | No                           | \$ 3,000,000               | \$ 12,000,000        | 959                  | \$ 12,513                               | Retrofit Modular Building                       | NR                                      | 18                          | 2 FTE        | More needed             | 5,000 (1,250 K-12 students)                    | 12 Stations, 4 laptops                          | MATI (200/100)                | Library  |
| <b>Totals</b> |  |  |                              | <b>\$ 37,593,122</b>       | <b>\$ 66,207,607</b> | <b>16,327</b>        |   |   |   |                             |              |                         |  |   |                               |  |

Information is self reported via the Tribal Education Alliance