



COLORADO

Department of Higher Education

Priority: R-3
Ft. Lewis Native American Tuition Waiver
FY 2014-15 Change Request

Cost and FTE

- The Department requests an increase of \$836,855 General Fund to fund the Ft. Lewis College Native American Tuition Waiver in FY 2014-15. This increase would bring the total appropriation to \$15,303,085 General Fund.

Current Program

- Colorado is required via Federal treaty and state law to provide full tuition assistance to any qualified Native American student who attends Ft. Lewis College.

Problem or Opportunity

- The Federal treaty with Colorado applies to all Native American students throughout the United States. Therefore, the appropriation must cover both resident and non-resident tuition for participating students. Current funding would fall short of the program cost by \$836,855.

Proposed Solution

- The Department requests that the Ft. Lewis College Native American Tuition Waiver funding be increased to cover Native American student enrollment and tuition costs.

Consequences of Problem

- If not funded, Colorado will be out of compliance with both statute and Federal treaty requirements.

Schedule 13 Funding Request for the 2014-15 Budget Cycle

Department: Department of Higher Education
Request Title: Fort Lewis College Native American Tuition Waiver
Priority Number: R-3

Dept. Approval by: *[Signature]* 10/22/13 Date
OSPB Approval by: *[Signature]* 10/25/13 Date

Decision Item FY 2014-15
 Base Reduction Item FY 2014-15
 Supplemental FY 2013-14
 Budget Amendment FY 2014-15

Line Item Information		FY 2013-14		FY 2014-15		FY 2015-16
		1	2	3	4	5
		Appropriation FY 2013-14	Supplemental Request FY 2013-14	Base Request FY 2014-15	Funding Change Request FY 2014-15	Continuation Amount FY 2015-16
	Fund					
Total of All Line Items	Total	14,466,230	-	14,466,230	836,855	836,855
	FTE		-		-	
	GF	14,466,230	-	14,466,230	836,855	836,855
	GFE		-		-	
	CF		-		-	
	RF		-		-	
	FF		-		-	
(3) Colorado Commission on Higher Education Financial Aid, (C) Special Purpose - Native American Students/Fort Lewis College	Total	14,466,230	-	14,466,230	836,855	836,855
	FTE		-		-	
	GF	14,466,230	-	14,466,230	836,855	836,855
	GFE		-		-	
	CF		-		-	
	RF		-		-	
	FF		-		-	

Letternote Text Revision Required? Yes: No: If yes, describe the Letternote Text Revision:

Cash or Federal Fund Name and COFRS Fund Number: N/A
 Reappropriated Funds Source, by Department and Line Item Name: N/A
 Approval by OIT? Yes: No: Not Required:
 Schedule 13s from Affected Departments: N/A
 Other Information: N/A



COLORADO

Department of Higher Education

John W. Hickenlooper
Governor

Joseph A. Garcia
Lieutenant Governor

FY 2014-15 Funding Request | November 1, 2013

Department Priority: R-3

Request Detail: Fort Lewis College Native American Tuition Waiver

Summary of Incremental Funding Change for FY 2014-15	Total Funds	General Fund
Fort Lewis College Native American Tuition Waiver	\$836,855	\$836,855

The Department of Higher Education requests an increase of \$836,855 General Fund to fund the Ft. Lewis College Native American Tuition Waiver in FY 2014-15. This increase would bring the total appropriation to \$15,303,085 General Fund. This funding increase is necessary to fully comply with state statute and the Federal treaty.

Proposed Solution

An increase in the funding for the Ft. Lewis College Native American Tuition Waiver will ensure that the State is in compliance with state statutory and federal requirements.

Statutory Requirements

Section 23-52-105 (1) (b), C.R.S. states, “*The general assembly shall appropriate from the state general fund one hundred percent of the money required for tuition for such qualified Indian pupils*” at Fort Lewis College. Fort Lewis College waives tuition for these students upfront and receives reimbursement from the State in the following fiscal year. The funding for this program is in arrears, such that this FY 2014-15 request covers the prior year’s actual waivers granted in FY 2013-14.

Background

In 1910, the United States Commissioner of Indian Affairs recommended that the property encompassing Ft. Lewis College (which had been previously declared a federally owned Indian school) be transferred to Colorado if the state were willing to accept certain conditions. The Sixty-first Congress passed an Act which granted the State of Colorado the Ft. Lewis property provided that:

“...said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils...”

In 1911, Colorado Governor John P. Shafroth signed the Executive Order which accepted Ft. Lewis under the conditions of the 1910 Act of Congress. By the 1960s, increasing numbers of Native American students

were attending the school and the associated cost prompted the Colorado Legislature in 1971 to enact legislation that limited full tuition coverage to only Native American pupils who qualified for in-state tuition in Colorado. This legislation was challenged by the Federal government in 1972 as a breach of the contract created by the 1910 Acts and 1911 Executive Order. Chief Judge Alfred A. Arraj ruled in favor of the Federal Government that the Act and the acceptance of its terms by Colorado resulted in a contract that required Colorado to admit any Native American student to Ft. Lewis College free of charge for tuition. This decision was further upheld by the United States Court of Appeals, Tenth Circuit. It is this legal precedent that directs State policy and budgetary action regarding the Ft. Lewis Native American Tuition Waiver currently.

If this request is not approved, the State will be out of compliance with Colorado statute and the federal treaty.

Anticipated Outcomes:

The increase will fund the statutory obligations for paying student tuition associated with Native American student enrollments and tuition costs at Fort Lewis College.

The mission of the Colorado Department of Higher Education is to improve the quality of, ensure the affordability of, and promote access to postsecondary education for the people of Colorado. In fulfilling the terms of the Ft. Lewis Native American tuition waiver, the Department not only ensures compliance with statute but also promotes access to postsecondary education for a significantly underserved minority population.

Assumptions and Calculations:

Please see Attachment A for the detailed calculations used to arrive at this request. The following assumptions were used for these calculations:

- The FY 2014-15 budget request (\$15,303,085 total, an increase of \$836,855 General Fund) is based on the FY 2013-14 estimate of actual waivers (as all funding is made in arrears, based on the prior year).
- The FY 2013-14 appropriation was based on FY 2012-13 estimates; however, this calculated amount is recalibrated in this request.
- The request assumes that resident and non-resident student will represent the same percentage of total enrollments as actual FY 2012-13 enrollments.
- The request accounts for an actual tuition increase in FY 2013-14 of 9.0% for resident students and 0.0% for non-resident students.

ATTACHMENT A: DETAIL FOR FY 2014-15 BUDGET REQUEST FOR THE FORT LEWIS COLLEGE NATIVE AMERICAN PROGRAM

The FY 2014-15 budget request (\$15,303,085 total, an increase of \$836,855) is based on the FY 2013-14 estimate of actual waivers (as all funding is made in arrears, based on the prior year).

SUMMER SESSION III	FALL	WINTER	SUMMER SESSION I	SUMMER SESSION II	YEAR SUBTOTAL	PRIOR YEAR FUNDING ADJUSTMENT	TOTAL = PREV. YR. ADJ. PLUS SUBTOTAL
113,259	7,626,123	7,093,914	461,986	327,576	15,622,857 <a>	(319,772) <f>	15,303,085

The following is the funding requested for FY 2014-15. It is based on the FY 2013-14 estimated waiver cost (\$15,622,857 plus an adjustment to reflect an anticipated decrease in the program for FY 2014-15 (\$319,772)) based on the past year's adjustment.

Funding Requested for FY 2014-15 Funded in arrears, FY 2014-15 Funding is for estimated FY 2013-14 Waivers

The following figures show the funding estimated for FY 2012-13. These estimates form the basis of the FY 2013-14 request, which is made in arrears.

FY 2013-14 Waiver Estimate Calculations

PROJECTED TUITION BY RESIDENCY STATUS

BASED ON ASSUMPTIONS BELOW

RESIDENT	4,608	398,519	29,233	15,293	869,216		
NON-RESIDENT	108,651	6,695,395	432,753	312,283	14,753,641		
TOTAL	113,259	7,626,123	461,986	327,576	15,622,857 <a>		

FY 2013-14 Appropriation	14,466,230 <c>
FY 2014-15 Request	15,303,085
New Funding Requested	836,855

When the FY 2013-14 appropriation (in the Long Bill, SB13-230) was made, it was calculated based on the following FY 2012-13 assumptions (as requested by the Executive):

Native American Appropriation FY 2013-14	186,992	6,440,914	676,499	407,342	14,358,085 <d>	108,145 <e>	14,466,230 <c>
Based on Fort Lewis' Estimate of 100% Tuition Waivers for FY 2012-13							

DOLLAR VALUE OF NATIVE AMERICAN WAIVERS:

SSIII - 2012	186,992
FALL - 2012	6,646,338
WINTER - 2012	6,440,914
SSI - 2013	676,499
SSII - 2013	407,342
TOTAL	14,358,085 <d>

BREAKDOWN

ATTACHMENT A: DETAIL FOR FY 2014-15 BUDGET REQUEST FOR THE FORT LEWIS COLLEGE NATIVE AMERICAN PROGRAM

This estimate of FY 2012-13 was adjusted by \$108,145 which represented the FY 2011-12 adjustment. Together, the waiver estimate (\$14,358,085) plus the built-in adjustment for the prior year's adjustment for FY 2011-12 (\$108,145) totaled \$14,466,230.

The FY 2013-14 appropriation which was based on FY 2012-13 estimates, however, is now calculated to have been slightly too high as shown below.

DOLLAR VALUE OF FY 2012-13 NATIVE AMERICAN WAIVER	FY 2012-13 ACTUALS		TOTAL	FY 2012-13 Waiver Est.	Difference \$	%
	RESIDENT	NON-RESIDENT				
SSIII - 2012	6,508	180,484	186,992	186,992	0	0.00%
FALL - 2012	334,854	6,311,484	6,646,338	6,646,338	-	0.00%
WINTER - 2012	332,376	6,086,723	6,419,099	6,440,914	(21,816)	-0.34%
SSI - 2013	26,819	432,753	459,572	676,499	(216,927)	-47.20%
SSII - 2013	14,030	312,283	326,313	407,342	(81,029)	-24.83%
TOTAL	714,587	13,323,726	14,038,313	14,358,085	(319,772)	-2.28%
BREAKDOWN	5.09%	94.91%	100.00%			

ASSUMPTIONS:

RESIDENT BREAKDOWN PERCENTAGE

NON-RESIDENT BREAKDOWN PERCENTAGE

PREV YEAR RESIDENT TUITION INCREASE

PREV YEAR NON-RESIDENT TUITION INCREASE

RESIDENT TUITION INCREASE

NON-RESIDENT TUITION INCREASE

PROJECTED NATIVE AMERICAN GROWTH (DECLINE) - BY TERM

Resident

Non-Resident

Assumption is that resident students will represent the same percentage of total enrollments as actuals from FY 12-13 (seen above)

Assumption is that non-resident students will represent the same percentage of total enrollments as actuals from FY 12-13 (seen above)

This is the actual resident tuition increase enacted by the Board for academic year 2012-13

This is the actual non-resident tuition increase enacted by the Board for academic year 2012-13

This is the actual resident tuition increase enacted by the Board for academic year 2013-14

This is the actual non-resident tuition increase enacted by the Board for academic year 2013-14

-41.00%	15.50%	10.00%	0.00%	0.00%
-39.80%	14.15%	10.00%	0.00%	0.00%

OTHER DETAIL (FY 2012-13 Actual Waivers)

Actual Native American Tuition Waivers for FY 2012-13	SUMMER SESSION III	FALL	WINTER	SUMMER SESSION I	SUMMER SESSION II	YEAR SUBTOTAL
Source FGIBDST 6/30/13 (See page 2 for calculation of this estimate)	186,992	6,646,338	6,419,099	459,572	326,313	14,038,313
FY 2012-13 Funding Adjustment (See page 2 for calculation of this estimate)	0	(0)	(21,816)	(216,927)	(81,029)	(319,772)

ATTACHMENT A: DETAIL FOR FY 2014-15 BUDGET REQUEST FOR THE FORT LEWIS COLLEGE NATIVE AMERICAN PROGRAM

NOTES:

- <d> Represents the FY 2013-14 waiver estimate calculation (to be paid in FY 2014-15) prior to any adjustment for higher FY 2013-14 cost/utilization.
- <d> The FY 2014-15 request is calculated based on the FY 2013-14 waiver estimate calculation, plus a (\$319,772) adjustment based on FY 2012-13 actuals. See lettermate (f) for more information on the adjustment.
- <d> Represents the FY 2013-14 appropriation, per SB13-230 (Long Bill).
- <d> Represents the base FY 2012-13 waiver estimate which formed the original FY 2012-13 estimate, prior to an adjustment of \$108,145 for FY 2012-13 overages. This sum was paid in arrears in FY 2013-14.
- <e> Represents the final (actual) FY 2012-13 waiver estimate, funded in FY 2013-14 in arrears for FY 2012-13.
- <f> Represents the FY 2013-14 funding adjustment. This sum has been subtracted from the FY 2013-14 estimate (which forms the FY 2014-15 request).
- <g> This sum is the FY 2011-12 adjustment for actual waivers. This sum was added to the <d> FY 2012-13 waiver estimate to form the FY 2013-14 appropriation.
- <h> Estimates are based on historic changes in enrollment.
- <i> The FY 2013-14 updates in this FY 2014-15 request should not be construed as a FY 2013-14 supplemental request. Any adjustments to FY 2013-14 in this area will be submitted at a later date.