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## FISCAL IMPACT REPORT

SPONSOR Pinto ORIGINAL DATE 3/4/17  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Ft. Sill Apache Membership On Councils SB 524

ANALYST Boerner

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

Committee Substitute for Senate Bill 524 (SB 524) proposes to change the voting memberships on two advisory councils to allow representatives from the Fort Sill Apache tribe to participate on the Indian Education Advisory Council and the Native American Suicide Prevention Advisory Council.

### FISCAL IMPLICATIONS

None noted.

### SIGNIFICANT ISSUES

On April 14, 2014 the New Mexico State Supreme Court unanimously ruled in favor of the Fort Sill Apache Tribe (FSA) requiring the state to add the Tribe to the IAD’s official list of chief executives for Indian nations, tribes or pueblos and include FSA in the annual State-Tribal Summit required under NMSA 1978, § 1-1-8-4(A). FSA is a federally-recognized tribe with its only Tribal Reservation located in Luna County, New Mexico. The specific ruling stated:

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus hereby is GRANTED and a writ of mandamus shall issue directing the Governor of the State of New Mexico and the Secretary of the New Mexico Indian Affairs Department to add the contact information for the Fort Sill Apache Tribe to the list of names and contact information for the chief executives of the Indian nations, tribes or pueblos and for the

state agency tribal liaisons that the New Mexico Indian Affairs Department is required to maintain for public reference under NMSA 1978, § 1-1-8-3(D)(2009), and to include the leaders of the Fort Sill Apache Tribe in the annual state-tribal summit that the Governor is required to hold under NMSA 1978, § 1-1-8-4(A) (2009) (See Attachment A).

In a press release about the NM Supreme Court's ruling FSA noted, "Today's victory will open the door to collaboration, benefits and recognition enjoyed by every other New Mexico tribe and Pueblo...". "We look forward to working with the Governor and her staff and are excited to continue our journey home."

In its analysis of a similar bill, IAD argued that the number of FSA Tribal members living in New Mexico is "de minimis," or so small that the Tribe's representation on either state advisory council would amount to inequitable tribal determination on vital state matters. IAD states:

Per the Fort Sill Apache tribe website, the tribe consists of 670 members, about half over the age of 18. Roughly 300 live in Oklahoma, the rest are spread across the United States, England, and Puerto Rico. (<https://fortsillapache-nsn.gov>) The number of tribal members living in New Mexico is de minimis. Representation on either state advisory council, given the small numbers of tribal members residing in New Mexico, allows for inequitable tribal determination on vital state matters affecting state's citizens. It is unknown if any tribal members permanently reside in its 30-acre reservation near Deming.

However, in documents provided to the court (See Attachment B *Reply in Support of Verified Petition for Writ of Mandamus* ) Fort Sill pointed out:

The Fort Sill Apache Indian Reservation is not just some land in New Mexico that the Tribe happens to own. It is the Tribe's Reservation, recognition of which was hard-won only recently and after years of legal struggles. That the majority of the population of the Tribe has not yet returned to its aboriginal territory is not surprising, given Respondents' hostility and the relatively recent recognition of the Tribe's reservation in the area of its ancestral homeland. Because Respondents do not dispute that the Fort Sill Apache Indian Reservation is in New Mexico, they cannot argue that the Tribe is not located at least partially in New Mexico.

## **BACKGROUND INFORMATION**

The following background information about the tribe as provided on its webpage:

The Fort Sill Apache Tribe is the successor to the Chiricahua and Warm Springs Apache Tribes. In 1886, they were taken as prisoners of war by the U.S. Army and removed from their homelands of southwestern New Mexico and southeastern Arizona to Florida, Alabama and Oklahoma, where they were released. They organized as the Fort Sill Apache Tribe after a Federal Court affirmed their claim for the loss of over 14.8 million acres of their homeland. The Tribe has always maintained both its independence as Chiricahua – Warm Springs Apaches and its desire to return to its rightful home. After receiving an invitation from the Governor of New Mexico in 1995 and again in 2000 to return to New Mexico, the Tribe purchased the property at Akela Flats in 1998. It was made tribal trust land in 2002 and designated a Reservation in November 2011.