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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/14
SPONSOR Munoz **LAST UPDATED** _____ **HB** _____

SHORT TITLE School Transportation Boundary Agreements **SB** 278

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	Public Education Department Operating Budget

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 169, SB 258, SB 278
 Partially duplicates HB 308 and SB 320

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

SUMMARY

Synopsis of Bill

Senate Bill 278 amends Section 22 Article 16 NMSA 1978 to addresses transportation boundary issues of school districts with a high concentration of Native American students, provide for transportation boundary agreements, and to provide a resolution process for boundary disputes. The bill requires the secretary of Education, after conducting a study of a boundary dispute and consulting with tribal leaders, to set and approve a boundary agreement.

FISCAL IMPLICATIONS

This bill does not contain an appropriation. IAD and PED both note that HB 308 would create an additional administrative burden on PED.

SIGNIFICANT ISSUES

The bill adds a section to Chapter 22 Article 16 NMSA 1978 which provides for transportation boundary agreements and a process for the resolution of transportation boundary disputes in school districts where a minimum of 75 percent of the district's student membership is Native

American. However, the bill duplicates the resolution process already in place in the New Mexico Administrative Code: 6.42.2.12 NMAC, an established rule that currently governs temporary boundary agreements. The NMAC rule establishes procedures and criteria as well as a resolution process. The rule establishes requirements related to the provision of transportation services to students who attend school in a district other than the district in which they live; and establishes procedures pertaining to the resolution of transportation issues in areas where local school districts are engaged in school district boundary disputes. The current rule is a statewide rule and does not limit its scope to a targeted ethnic population.

However, the bill does add two provisions to resolution disputes: (1) PED must provide a written report within 15 days of completion of a boundary dispute study that sets forth a permanent boundary agreement, and (2) PED must review the transportation boundary agreement annually. Upon review, if the conditions necessitating the agreement are no longer in place, the former boundary must be restored. However, if the conditions necessitating the agreement continue to be in place, make the temporary boundary agreement permanent or, after consultation with local school boards and affected tribal leaders, establish an alternative boundary. (See Technical Issues)

IAD has reported the following for similar bills:

At the September 24, 2013 meeting of the interim Indian Affairs Committee (IAC), issues surrounding school bus routes on the Navajo Nation between Gallup-McKinley School District (GMSD) and Central Consolidated School District (CCSD) were discussed. No Memorandum of Understanding (MOU) has been reached regarding issues with school bus routes.

On November 27, 2013 the Naabik'iyáti' Committee of the 22nd Navajo Nation Council approved legislation supporting and recommending a cooperative agreement between the Navajo Nation, McKinley County, San Juan County, and the New Mexico Public Education Department in an effort to resolve bus transportation disputes that have affected dozens of Navajo students living in or near the community of Naschitti.

Over the last few months, the Central Consolidated School District, which includes Naschitti, Tohatichi, and the Gallup-McKinley County School District, have met with state and tribal officials to resolve the boundary issues and have yet to come to an agreement to allow Gallup-McKinley buses to cross boundary lines to transport students living in San Juan County. Students living in the vicinity of Naschitti are often forced to walk miles to meet Gallup-McKinley County District buses at the county boundary line to be transported to their school in Tohatchi, located approximately 18 miles from Naschitti. Road construction is currently underway on U.S. Highway 491, making safety concerns a major problem for students walking to and from the county boundary.

This bill addresses a critical issue affecting Navajo Nation students and their safety in getting to school. The collaboration between tribal leaders and the PED is crucial.

PED notes that currently there are only four school districts and one state chartered school that

meet the 75 percent membership criterion in the bill: Dulce, Gallup, Central, and Zuni school districts, and Walatowa charter school.

PERFORMANCE IMPLICATIONS

IAD states that if any tribe, nation, or pueblo has questions pertaining to the transportation boundaries issues or tribal consultation, the agency will become involved and work in collaboration with PED.

DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 169, HB 308, and SB 258, SB 320 all addresses school transportation boundary agreements and resolution of transportation of boundary disputes.

TECHNICAL ISSUES

SB 278 adds a section of 22-16 NMSA 1978 that defines “school district” as a district reporting a minimum of 75 percent of the districts’ student membership as Native American. It may be confusing to add a definition of “school district” for one section of statute that is different from the definition in other sections of statute.

IAD has stated that the requirement that PED conduct a study within 30 days of a boundary dispute, and within fifteen days of completion of the study, in consultation with tribal leaders, provide a written report to all parties involved in the dispute that creates a permanent or temporary transportation boundary agreement, presents the following difficulties:

- The time frames set forth may not be adequate to conduct a study *and* do a tribal consultation;
- It is unclear if the phrase “in consultation with tribal leaders” signifies that PED must conduct a tribal consultation utilizing their State-Tribal Collaboration Act Collaboration and Communication Policy; and
- It is unclear what exactly is meant by the phrase “conduct a study” and what processes and procedures the PED will use.

PED notes the following concerns:

- On page 4, line 4, the bill requires tribal leaders in conjunction with PED to provide a temporary boundary agreement whenever there is a boundary dispute between two local boards. This infringes on the powers of the office of the Secretary of Education provided for in the Constitution.
- It is not certain if the state can require tribal leaders to participate in these types of dispute resolution activities, notwithstanding the separate sovereign authorities of the State and the respective tribes.
- It may not be feasible for PED to consult and establish a boundary agreement within the 15 days set forth in the bill.