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## FISCAL IMPACT REPORT

SPONSOR Begaye DATE TYPED 1/26/04 HB 156

SHORT TITLE Tribal-State Court Cultural Exchange Program SB \_\_\_\_\_

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	\$14.1			Recurring	General Fund

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 156 appropriates \$14,048 from the general fund to the AOC for the Tribal-State Judicial Consortium cross-court cultural exchange programs to facilitate communication between state and tribal judicial systems. The programs are to improve awareness of jurisdiction and sovereignty issues, focusing on the areas of domestic violence, domestic relations and custody, child support, child abuse and neglect and juvenile justice.

#### Significant Issues

During the last five years, there has been judicial cooperation on the jurisdiction and sovereignty of the state and the twenty-two Indian nations, tribes and pueblos located in New Mexico. The issues impact state and tribal court actions regarding child abuse, juvenile justice, custody, divorce, child support and domestic violence.

Through the work of the tribal-state judicial consortium, judges and other participants have an opportunity to learn about each other's courts, laws, customs and values through annual cross-court cultural exchanges. Improved relationships help ensure more efficient and more culturally relevant interactions and services while respecting the sovereignty of the Indian Nations. Ac-

knowledging the sovereignty of Indian Nations through the judicial system will make it easier for other state and tribal public systems and services to work together and coordinate services, particularly in those areas where children and families are involved.

The AOC states the Indian Law Section of the State Bar and the Indian Bar of New Mexico support the initiatives of the Tribal-State Judicial Consortium.

### **FISCAL IMPLICATIONS**

The appropriation of \$14,048 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the general fund.

The funding in this bill will be used for expenses associated with the Tribal-State Judicial Consortium cross-court cultural exchange program conference including rental at the Ruidoso Convention and production of printed materials.

### **ADMINISTRATIVE IMPLICATIONS**

The AOC can implement this bill with existing staff.

### **OTHER SUBSTANTIVE ISSUES**

The AOC listed the accomplishments of the NM Tribal-State Judicial Consortium:

#### In the area of enhancing collaboration & communication between state and tribal courts:

A Cross-Court Cultural Exchange was held on March 23-24, 2000 in the northwest region of the state and included the Navajo District Court in Crownpoint and the State District Court in McKinley County. Judges, attorneys, child welfare workers, legislators, law enforcement officers, and other child advocates attended.

A second Cross-Court Cultural Exchange was held on October 25-26, 2001 in the central region of the state and included the Isleta, Acoma, and Laguna Pueblos and the State District Courts in Bernalillo and Sandoval Counties.

A third Exchange was held on October 2-4, 2002 in the north central region of the state and included the Tesuque, San Juan, and Santa Clara Pueblos, the 1st Judicial District Court, and the New Mexico Supreme Court and Court of Appeals, with the participation of the U.S. District Court. This Exchange also included visiting the Nambe Pueblo for their Feast Day, Crafts Fair, and Indian dancing.

A fourth Exchange was held on October 29-31, 2003 and included the Four Corner States of Arizona, Utah, Colorado and New Mexico and was held in Albuquerque. This event was hosted by the Supreme Courts & Court Improvement Projects of the four states, as well as the Colorado-New Mexico Indian Court Judges Association and the Supreme Court of the Navajo Nation.

As a result of these Exchanges, a workshop was developed and conducted on the topic of Cross-Deputization of Law Enforcement Officers. This included the development of agreements and

training of officers representing the state and tribal agencies, allowing officers to have jurisdiction on each other's land.

As a result of these Exchanges, the Navajo Drug Court collaborated with the Bernalillo County Metropolitan Court to hear from treatment providers and other resources used in drug court programs.

The Full Faith and Credit Project, which works with the Navajos and the 19 pueblos around issues of domestic violence, held a meeting to discuss some of the issues raised at workshops held at the Cross-Court Exchanges.

The State Supreme Court invited the Crownpoint Tribal Court Judges to observe Supreme Court and Court of Appeals hearings.

In the area of clarifying laws:

The Consortium invited Senator Tsoosie and retired Representative Pederson, along with representatives from the Children, Youth and Families Department, to provide clarification of: the procedures for implementing 1999 Full Faith and Credit legislation in the area of juvenile justice; the required intergovernmental agreements; and the domestication of tribal court orders.

In the area of educating tribal and state agencies and judiciaries:

The Consortium invited representatives from the state Human Services Department, Child Enforcement Division and the Director of the Navajo Child Support Program to speak about their initiatives, the use of federal Title IV-D funding, and the creation of Joint Powers Agreements with the state agency.

Some of the workshop topics that have been presented at the annual Cross-Court Cultural Exchanges are:

- an overview of the Peacemaker process and its specific application in terms of children and violence;
- an overview of the organization of the Judicial Branch of the Navajo Nation, including the Peacemaker Division, and a summarization of the issues of jurisdiction as addressed in the Navajo Nation Code;
- a discussion among law enforcement representatives about problems encountered in enforcing court orders issued by another jurisdiction, including creative solutions such as cross-deputization agreements between the Navajo Nation and the McKinley County Sheriff's Department as one approach;
- a discussion of the organization of the State District Court and issues of jurisdiction as addressed in State Law and Court Rules;
- domestic violence issues: victim advocacy programs, state registry of Orders of Protection, enforcing orders from other jurisdictions;
- merging the traditional and modern justice systems: an overview of four Tribal courts;
- case law from Atkinson and Hicks: implications for jurisdictional cooperation;
- innovations in child welfare: mediation, family group decision making, and kinship guardianship;

- an overview of state and county courts;
- beyond ICWA: older youth in State & Tribal custody;
- strengthening relationships: working across jurisdictional lines;
- full faith & credit and enforcement issues in child & family matters;
- child witnesses;
- a jury of one's peers: assuring Native American representation on juries; and
- jurisdictional and other issues in child support enforcement.

In the area of developing policy & procedure:

In an effort to assure that Full Faith and Credit is given to court orders, the Consortium created a committee that drafted and proposed a Rule for Civil Procedure which gathered input from state and tribal judges. This proposed rule has been given to the Civil Rules Committee and is now being reviewed by the Supreme Court.

**DW/yr**