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FISCAL IMPACT REPORT

ORIGINAL DATE 2/07/06
LAST UPDATED 2/10/06 **HB** HM18/aHCPAC

SPONSOR Begaye

SHORT TITLE Enforcement of State & Tribal Alcohol Laws **SB** _____

ANALYST Weber

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Indian Affairs (DIA)
 Department of Health (DOH)
 Administrative Office of the Courts (AOC)
 Department of Finance and Administration (DFA)
 Department of Public Safety (DPS)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer & Public Affairs Committee amendment principal changes delete the Gaming Control Board and the New Mexico Gaming Association from contributors of the study.

Synopsis of Bill

House Memorial 18 (HM18) requests that the Governor's DWI coordinator appoint a task force consisting of tribal and state health, economic and law enforcement agencies, other regulatory agencies, and non-profit organizations (e.g., MADD) to review federal, state and tribal laws regarding the sale and consumption of alcohol and DUI/ DWI.

HM18 further requests the task force to: determine how state law and resources may assist in the regulation of alcohol consumption in tribally operated facilities and communities and to

determine how state and tribal law enforcement officials can work collaboratively to enforce DUI laws. Recommendations and findings are due October 1, 2006 to the appropriate legislative interim committees.

FISCAL IMPLICATIONS

Although there is no appropriation it appears such an extensive undertaking would require considerable resources and commitment of time.

SIGNIFICANT ISSUES

The Indian Affairs Department notes the following.

The statements and goals provided in HM18 appear to be very broad. The language suggests that the main goal is to ensure conformity of state and tribal laws regarding the regulation and consumption of alcohol. Therefore, the purpose of including several entities as members of the task force, such as the Independent Petroleum Marketers Association and the NM Sheriffs' and Police Association is questionable. Also, is unclear as to the relevance of including the NM Gaming Control Board and the NM Indian Gaming Board in the study. If the intent is to have the Tribes and the State work on a government-to-government basis to address consistency and enforcement of state and tribal laws on alcohol, it is recommended that the membership be revised to reflect only those appropriate tribal and state representatives. Importantly, as regard "the consistency" of state and tribal DUI/DWI laws, although the same may be studied and analyzed, one must consider the sovereign authority of each of the NM's 22 tribal governments to enact and enforce their own laws within their borders. The substance of such laws are dependent upon the needs of each respective tribal community. The results of the task force may not be productive, unless the Tribes agree to change or enact consistent tribal laws. The recommendations of the task force to the Tribes may appear as an attempt to dictate what tribal laws should be enacted.

It should be noted that a majority of NM's Tribes may not have existing tribal codes or laws regulating alcohol consumption and enforcement. If the Tribes do have these laws, it is at their discretion whether they would agree to share data or statistical information with the task force.

HM18 requests that the task force report their findings and recommendations to the appropriate interim legislative committees. It is unclear as to which legislative interim committees would have jurisdiction over the subject matter. The deadline for this report is October 1, 2006, which may not be enough time for the task force to complete its work due to state-tribal jurisdictional issues and the complexity of the issues involved.

The NM Indian Affairs Department has received comments from several tribal representatives, including the Office of the Chairman of the All Indian Pueblo Council that the proposed memorial is not in the best interest of Indian Pueblos.