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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/07

SPONSOR Pinto LAST UPDATED _____ HB _____

SHORT TITLE Formal State Recognition Of Tribes & Pueblos SB SJM 42

ANALYST Weber

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$10.0		\$10.0	Non- recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

Office of the Attorney General

SUMMARY

Synopsis of Bill

Senate Joint Memorial 42 (SJM 42) requests the New Mexico Office of the Attorney General (AG) and the Indian Affairs Department (IAD) to investigate the potential impact to the State of formal recognition of Indian Nations, Pueblos, and Tribes located within the State and also to investigate alternative forms of State recognition. Additionally, the AG and IAD are requested to provide a report of their findings and recommendations, no later than October 1, 2007, to the appropriate interim committees of the legislature. Finally, SJM 42 requires that copies of the memorial be sent to the Indian Nations, Tribes, and Pueblos in New Mexico, as well as the Ute Mountain Ute Tribe and the Chair of the All Indian Pueblo Council.

FISCAL IMPLICATIONS

There would be some undetermined operating cost attached to accomplishing this task. An estimate would be \$10 thousand split between the AG and IAD for potential traveling and related business expenses.

SIGNIFICANT ISSUES

The Indian Affairs Department notes that according to SJM 42, the Ute Mountain Ute Tribe of Colorado has 110,000 acres of reservation land located within the State of New Mexico. On July 5, 2005 the Ute Mountain Ute Tribe, by council resolution, requested the State formally recognize the Ute Mountain Ute Tribe as a New Mexico Tribe. As drafted, SJM 42 does not indicate whether tribal members of the Ute Mountain Ute Tribe actually reside within the tribal reservation land located within the State; the Memorial merely states that tribal members live and work in the State and that such reservation land is used for “traditional purposes and resources development, including grazing and oil and gas extraction.”

SJM 42 requests the AG and IAD study the potential impacts to the State of formal or alternative methods of State recognition of Indian Tribes, Nations, and Pueblos. The findings and recommendations of the study would be reported to the appropriate interim committees of the legislature. As drafted, a literal interpretation would limit such a study to tribal governments who have their central governing offices within the state, leaving out the Navajo Nation and the Ute Mountain Ute Tribe whose central governments are located in Arizona and Colorado respectively.

IAD continues that the federally recognized Ute Mountain Ute Tribe is located primarily in Towaoc, Colorado but possesses 110,000 acres of trust tribal land within New Mexico. Though there are no Ute Mountain Ute tribal members currently living on the tribal land in New Mexico, the tribe has developed oil, gas and grazing resources on the land. Additionally, the tribe uses the land for cultural and traditional purposes.

Since early 2003, the Ute Mountain Ute Tribe has sought membership in what was then known as the New Mexico Indian Affairs Commission administratively attached to the New Mexico Office of Indian Affairs; now, currently the New Mexico Commission on Indian Affairs attached to the New Mexico Indian Affairs Department. Then, as now, membership in the Commission was limited by New Mexico statute (NMSA §9-21-13) to the 19 Pueblos, the Navajo Nation, the Jicarilla Apache Nation, and the Mescalero Apache Tribe, one urban Indian representative, and one non-Indian representative.

The Ute Mountain Ute Tribe cites tribal members residing in New Mexico, natural resource development, and potential access to state funding as reasons for seeking membership on the Commission, as well as formal State recognition from New Mexico. It is not clear from the Memorial that, if recognized, the Ute Mountain Ute Tribe would seek capital outlay or other State funding.

Several issues present themselves. First, membership in the Commission for the Ute Mountain Ute Tribe would require amending NMSA §9-21-13 to include their representative. Second, to date, the Ute Mountain Ute Tribe has not received support from those Tribes now located in the State and which have developed a government-to-government relationship with the State. As

such, State recognition of another Tribe may prove to be an unpopular move. Finally, if the State were to adopt formal mechanisms to recognize Tribes (federally recognized or not) that are partially located in the State or have cultural ties to the State, the floodgates of applications may swing open. For example, the federally recognized Ft. Sill Apache Tribe of Oklahoma has purchased property in southern NM, but as a Tribe that is not recognized (formally or informally) as “a New Mexico Tribe” they are not currently eligible to receive capital outlay or other state funding.

MW/mt