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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/1/22

SPONSOR Lente

BILL
NUMBER House Bill 148

SHORT TITLE Early Childhood Dept. Tribal Agreements

ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund
Total						

Parenteses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From
Early Childhood Education and Care Department (ECECD)
Indian Affairs Department (IAD)

SUMMARY

Synopsis of House Bill

House Bill 148 (HB148) mandates the Early Childhood Education and Care Department (ECECD), at the request of a tribal community, enter into an inter-governmental agreement (IGA) to plan, conduct, and disburse funding, and administer ECECD programs (including the programs listed in paragraph 1, subsection B of the bill) using the tribal community’s culturally and linguistically relevant standards, assessments, and evaluations.

FISCAL IMPLICATIONS

HB 148 does not include an appropriation.

The LFC and executive recommendations for FY25 include an increase of \$750 thousand for early childhood tribal services.

ECECD stated the department currently used IGA’s as described in this bill but states the mandate could have an additional fiscal impact for requests made by an Indian nation, tribe, or pueblo but did not provide an estimate.

SIGNIFICANT ISSUES

ECECD stated, “The intent of the legislation is to ensure that New Mexico’s sovereign tribes, pueblos, and nations have equal opportunity to avail themselves of the programs and services that ECECD administers. ECECD already enters into inter-governmental agreements with tribal nations and has inherent authority to do so. This bill also creates a mandate for ECECD to fund IGAs but does not provide for an annual appropriation or non-recurring appropriation to do so.”

IAD reported, “The State-Tribal Collaboration Act (STCA) reflects the commitment of New Mexico state organizations to work with tribal leaders on a government-to-government basis and provide guidance to advance and support early childhood systems across Indigenous communities. The STCA signifies a milestone achievement that the State and the 23 sovereign nations, tribes, and pueblos accomplished together and will pave the way for the future benefit and longevity of cooperative and productive State-Tribal relationships.-[State Tribal Collaboration Act](#)

“There is a need for greater direct partnership with Tribes at a government-to-government level. One of the dominant themes that emerged from discussions with Native American participants across the state is the need for enhanced trust between Tribal nations and the state government, with an emphasis on enhancing the recognition and respect of Tribal sovereignty. In fact, many folks specifically mentioned the State Tribal Collaboration Act (STCA) in their concerns about government-to-government relationships.”-[Native American Perspectives Regarding a Needs Assessment for the New Mexico Early Childhood Education and Care Department](#).

OTHER SUBSTANTIVE ISSUES

As stated by the National Conference of State Legislatures:

“Native American tribal governments are sovereign, self-governing entities. Much like state governments, tribal governments are responsible for the health, safety and welfare of their citizens and their communities. Tribal sovereignty pre-dates the formation of the United States and is recognized through the U.S. Constitution and numerous federal statutes and court cases. Tribal governments are on equal footing with state government and have a government-to-government relationship with federal government. The sovereignty of each entity necessitates a government-to-government relationship at the state and tribal levels as well.

States and tribes have adjacent jurisdictions, with some tribes crossing into the boundaries of more than one state. These bordering jurisdictions are a key reason why state-tribal relationships are necessary. In addition, services are now provided by tribal government to members and non-members who reside on or near the reservations. This makes coordination between state and tribal agencies and service providers essential. There also is an increasing desire to ensure that services provided to tribal members through state programs are culturally-competent in order to increase effectiveness. Finally, tribal citizens are also citizens of the state in which they reside. State legislators have a responsibility to provide for the well-being of all state citizens, tribal and non-tribal alike. The health and well-being of tribal citizens and tribal communities enhance the overall health of a state. In short, strong tribes contribute to strong states.

Intergovernmental agreements and state-tribal compacts are one tool in promoting positive state-tribal relationships and fostering collaborative policy development. There are many policy issues and aspects of Indian law that require a high degree of state-tribal cooperation. The Indian Child Welfare Act (ICWA), taxation, public safety, emergency response and criminal jurisdiction and law enforcement are some of the key areas that can benefit from formalized agreements. Much as interstate agreements allow for government-to-government cooperation, state-tribal agreements accomplish the same end. This type of state-tribal cooperation allows the parties to tailor policy solutions to local situations while respecting state and tribal sovereignty. Consultation and cooperation through the agreement/compact negotiation and formation process can help policymakers avoid legislation that produces unintended consequences and spare the parties the potential costs of litigation.”

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