

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2-13-2006

SPONSOR SRC _____ LAST UPDATED _____ HB _____

SHORT TITLE PRC Interaction with Tribal Governments SJM 59/SRCS _____

ANALYST Dearing _____

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	*NFI		

(Parenthesis () Indicate Expenditure Decreases) *Please See Narrative

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Indian Affairs Department (NMIAD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of SRC Substitute

In general the Senate Rules Committee substitute joint memorial adopts a more formal and neutral language for the request presented in the original SJM 59. The substitute recognizes the intention of the PRC to cooperate with tribal and pueblo entities in instances where the commission has jurisdiction to conduct joint investigations, hold joint hearings, and issue joint or concurrent orders with the tribal and pueblo government entities.

Synopsis of SJM 59

Senate Joint Memorial 59 requests that the New Mexico Public Regulation Commission (“PRC”) be urged to develop a protocol for interactions with tribal governments immediately. Also requested is the initiation of procedures and principles for positive interactions that are respectful and effective which foster communication and encourage professional relationships among PRC and various sovereign pueblos, nations & tribes within New Mexico. It also directs the PRC to report to the interim legislative Indian Affairs Committee no later than September 2006, presenting at that time the protocol developed and adopted by the PRC that ensures respectful, effective interactions among the PRC and the Indian nations, tribes and pueblos which encourages better communication and fosters strengthened relationships.

FISCAL IMPLICATIONS

Senate Joint Memorial 59 carries no appropriation, if enacted, and as such has no direct fiscal implications, however, *due to implied additional personnel involved in producing extensive research and writing involved in drafting a protocol and rules for tribal consultation and interaction, there may be need for a FTE at the PRC to manage the process and ensure a quality product is produced.

SIGNIFICANT ISSUES

As indicated in SJM 59, Governor Richardson has taken significant steps to encourage and direct State agencies to develop, in consultation with New Mexico's Indian Tribes, Nations, and Pueblos, protocol and procedure regarding tribal consultation.

In responding to the critique of collaborative and cooperative procedures between New Mexico's Indian Tribes, Nations, and Pueblos, the Public Regulation Commission wishes to bring attention to a list of several actions and initiatives taken in order to demonstrate their respectful and proactive role in addressing the process, including, but not limited to:

- PRC Staff met with representatives of Laguna and Acoma Pueblos to assist the Pueblos with issues relating to supply of electricity for tribal high technology enterprises.
- The PRC opened Utility Case No. 3588 to explore the unlawful charging of gross receipts taxes on telephone services on tribal lands.
- In 2005, Commissioners and PRC Staff met with the Navajo Nation Telecommunications Regulatory Commission regarding the formation of a telecommunications regulatory body.
- On July 28 and 29, 2005, PRC Commissioners attended the FCC-NCAI ITI Regional Workshop to discuss key issues in the development of tribal communications services.
- On August 23, 2005, the PRC received, at a Formal Open Meeting, a visit and presentation from the Honorable Joe Shirley, President of the Navajo Nation. President Shirley and other tribal officials and residents have voiced their concerns to the PRC regarding the unavailability of telephone services.
- In that regard, the PRC has expedited the Application of Sacred Wind Communications to address the telecommunications needs of the Navajo people and Chairman Lujan raised the possibility of holding joint hearings.
- Chairman Lujan proposed creation of a tribal liaison position at the PRC and a request for the position was part of the PRC's 2007 budget request.
- On January 17, 2006, the PRC referred to mediation a complaint by the Pueblo of Zuni against Continental Divide Electric Cooperative, Inc., after both the Pueblo and the Cooperative agreed to mediation.

PERFORMANCE IMPLICATIONS

The PRC has requested a tribal liaison position whose duties would include developing procedures and principles for interactions with tribal and pueblo governments that are respectful and effective which encourage good communications and foster better relationships.

ADMINISTRATIVE IMPLICATIONS

In order to draft a meaningful tribal consultation protocol, the PRC would have to coordinate with all twenty-two Indian Tribes, Nations, and Pueblo in New Mexico. SJM 59 does not specifically state that, in developing the requested protocol, the PRC actually consult with the affected Tribes in drafting such protocol. Further, SJM 59 requests that a draft protocol be presented to the interim Senate Indian Affairs Committee “no later than September 2006.” It is not clear whether several months (from the date of enactment of this Memorial to September) would be sufficient time to develop a meaningful protocol.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Joint Memorial 59 is duplicative of House Joint Memorial 60.

TECHNICAL ISSUES

Section 8-8-4(B)(11) NSMA 1978, the Public Regulation Commission Act, requires cooperation of the public regulation commission with tribal governments on topics over which the commission has jurisdiction and to conduct joint investigations, hold joint hearings and issue joint or concurrent orders with tribal governments.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The interaction and collaboration of these groups will remain at the current level.

PD/mt:yr