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FISCAL IMPACT REPORT

	ORIGINAL DATE 01/27/11		
SPONSOR <u>Munoz</u>	LAST UPDATED _____	HB _____	
SHORT TITLE <u>LOCAL GOVERNMENT AS NAVAJO FISCAL AGENTS</u>		SB <u>224</u>	
	ANALYST <u>Hanika-Ortiz</u>		

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)

Indian Affairs Department (IAD)

SUMMARY

Synopsis of Bill

Senate Bill proposes to add a new section of chapter 6, Article 28 NMSA 1978, to further clarify that local county governments may act as fiscal agents for chapters of the Navajo Nation.

FISCAL IMPLICATIONS

The state may contract through a fiscal agent other than the Navajo Nation for the expenditure of state funds on behalf of local sub-governing tribal entities of the Navajo Nation, as long as that fiscal agent is a government entity.

An administrative fee of no more than five percent of a project's cost may be charged by the local county government to serve as fiscal agent. However, it is not unheard of for the local government acting as fiscal agent to not charge a fee for this service.

The bill defines capital outlay projects as projects to plan, design and construct improvements, infrastructure or purchase tangible property with a value of \$500 thousand or less.

SIGNIFICANT ISSUES

At the present time, local county governments may serve as fiscal agent for Navajo Nation capital outlay projects of any amount whether or not located within the boundaries of the county.

IAD reports that the Navajo Nation may have to amend its procurement code and other laws to provide for fiscal agents to be used to do capital projects for the Navajo Nation chapters.

IAD questions whether the bill violates principles of tribal sovereignty by authorizing local county governments to act as fiscal agents to conduct business with certified Navajo Nation chapters, in the absence of any recognition or authorization from the Navajo Nation itself.

PERFORMANCE IMPLICATIONS

The state recognizes the chapters of the Navajo Nation as local sub-governing tribal entities having the capability and capacity to apply for and implement capital improvement projects.

The AG reports no significant legal implications.

ADMINISTRATIVE IMPLICATIONS

IAD further reports that under Navajo Nation law non-LGA chapters do not have explicit authority to implement capital improvement projects. The only entities under Navajo Nation law that have explicit authority to do procurement for public facilities are Design and Engineering Services and LGA-certified chapters, that have their own procurement policies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Local county governments will continue to be able to serve as fiscal agent for the Navajo Nation for capital outlay projects of any amount.

AHO/sec