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FISCAL IMPACT REPORT

SPONSOR Muñoz **ORIGINAL DATE** 02/20/11 **LAST UPDATED** _____ **HB** _____
SHORT TITLE Tribal Capital Improvement Projects **SB** 510
ANALYST Earnest

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

Indian Affairs Department (IAD)

SUMMARY

Senate Bill 510 would allow certain tribal non-profit entities to apply for and implement capital improvement projects.

FISCAL IMPLICATIONS

None identified.

SIGNIFICANT ISSUES

The Indian Affairs Department 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.

Additionally, recognizing non-profit entities as tribal organizations under tribal supervision may also violate Article IX, sec. 14 of the New Mexico Constitution (the "Anti-donation Clause").

Lastly, a non-profit entity that is an entity of the Navajo Nation government could be bound by the Navajo Nation Procurement Code and may not have the authority to engage in procurement if the capital improvement project is a public facility.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB510 relates to SB224 (Local Governments as Navajo Fiscal Agents), which establishes a new section under Section 6-28-2 NMSA 1978 by recognizing that local county governments are permitted to act as fiscal agents for chapters certified by the Navajo Nation pursuant to the Navajo Nation Local Government Act (LGA) codified under Title 26 of the Navajo Nation Code and located within the exterior boundaries of the Navajo Nation.

SB510 relates to SB238 (Fiscal Agents for Navajo Nation Projects), which amends Section 6-28-2 NMSA 1978 by clarifying that Chapters of the Navajo Nation and certain non-profit entities are eligible to apply for and implement capital improvement projects through a fiscal agent other than the Navajo Nation.

SB510 relates to HB403 (Navajo Nation Capital Project Conditions), which amends Section 6-28-2 NMSA 1978 by recognizing Chapters of the Navajo Nation that have been certified pursuant to the Navajo Nation Local Government Act (LGA) codified under Title 26 of the Navajo Nation Code; and determining that local tribal entities are eligible to for and implement, and act as a fiscal agent for capital improvement projects. The State is authorized to contract through a political subdivision of the State or a school board having local education authority as a fiscal agent.

BE/mew