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FISCAL IMPACT REPORT

SPONSOR Sanchez **DATE TYPED** 3/17/05 **HB** _____

SHORT TITLE Public Peace, Health, Safety and Welfare **SB** 1099/SECS

ANALYST Hanika-Ortiz

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$0.1		

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Substitute Bill

The Senate Education Committee Substitute for SB 1099 amends Section 22-8-11 NMSA 1978 relating to the Public Education Departments operating budget approval process to require school districts in which an Indian Education Committee is established pursuant to federal law to demonstrate that the involvement of the Committee in the budget process was solicited. The substitute bill also replaces the State Superintendent with the Secretary of Education in the budget process.

Significant Issues

The bill empowers Indian Education Committees to participate in how education funds are spent. Neither State statute nor regulation currently recognizes the existence of local school district Indian Education Committees.

PED assesses that Section 22-23A-5(7) requires a “school district to obtain a signature of approval by the tribal governments or tribal government designees residing within the school district boundaries, verifying that the tribes agree to Indian education polices and procedures pursuant to federal requirements.” In addition, federal regulation also prescribes procedures for school districts to obtain input and provide an opportunity for consultation with tribes regarding impact aid funds.

DIA states “several New Mexico Indian tribes and parents have expressed serious concerns that school districts are not spending funds appropriately or equitably among the schools within the district.

FISCAL IMPLICATIONS

The state takes a credit of 75 percent of impact aid revenues flowing to local districts, except for special education and Indian set-aside funds when calculating the State Equalization Guarantee (SEG). Of the remaining 25 percent, 20 percent is used for public school capital outlay projects and 5 percent for operational purposes. The National Education Association reports Federal Impact Aid Basic Support Payments to the state is \$84.9 million for 2005.

Federal law provides for withholding of federal impact aid funds if it is determined that a school district's Indian policies and procedures have not been developed and implemented according to federal regulation. The review of a school district's Indian policies and procedures and subsequent determination of compliance is made by the Federal Director of the Impact Aid Program.

Any additional costs will be determined by how the Department solicits the Committee's involvement and any recommendations made by the Committee that impact education services.

ADMINISTRATIVE IMPLICATIONS

Districts will have to amend procedures to allow for consultation with Indian Education Committees in establishing budgets.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

PED identifies the following related statutes and Code of Federal Regulations (CFR)

- Section 22-23A-5-(7) NMSA 1978 requires a school district to obtain a signature of approval by the tribal governments or tribal government designees residing within the school district boundaries, verifying that the tribes agree to Indian education policies and procedures pursuant to federal requirements.
- Section 22-8-10 NMSA 1978 requires school districts to invite parental involvement and input in the budgetary process.
- 34 CFR Section 222.102 provides a remedy for tribes to file a complaint about a local school district's Indian policies and procedures.
- 34 CFR Section 222.94 requires the involvement of tribal officials and parents of Indian children in the planning and development of the local education authority's education programs and activities and spells out procedures on how districts can involve tribal officials and Indian parents.

TECHNICAL ISSUES

Suggest the new language added to paragraph C be entered as a new paragraph D.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

There will not be recognition in State statute nor regulation relating to the existence and participation of local school district Indian Education Committees in the education budget process.

AHO/lg