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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/07  
 LAST UPDATED 02/28/07    HB 742/aHTRC/aHF1

SPONSOR Begaye

SHORT TITLE Forensic Investigation Fees to Tribes    SB \_\_\_\_\_

ANALYST Williams

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation of \$3,526.1 thousand in House Bill 7 version of the General Appropriation Act.

Relates to Senate Bill 95 and House Bill 358

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)  
 University of New Mexico (UNM) 2007 Legislative Priorities  
 UNM Office of the Medical Investigator  
 Taxation and Revenue Department (TRD)  
 Department of Indian Affairs (2) (DIA)

### SUMMARY

#### Synopsis of HF1 Amendment

The House Floor Amendment to House Bill 742 removes Section 5 of the original bill which provides for an effective date of July 1, 2007. A new section is added to provide for a contingent enactment, so that the bill is contingent upon an appropriation to the office of the state medical investigator for medical investigations requested by Indian nations, tribes or pueblos in the General Appropriation Act of 2007 or other legislation enacted by the first session of the forty-eighth legislature.”

DFA would certify to the state compilation commission and the legislative council service that

money to the office of the state medical investigator for those investigations has been appropriated.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment removes the appropriation.

Synopsis of Original Bill

House Bill 742 appropriates \$400,000 from the general fund to the board of regents of the University of New Mexico for expenditure in fiscal year 2008 and subsequent fiscal years for the office of the state medical investigator to conduct forensic investigations and other services as requested by Indian nations, tribes and pueblos located in whole or in part in New Mexico. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

Currently, the Office of the Medical Investigator (OMI) at the University of New Mexico (UNM) charges fees to New Mexico Native American nations, tribes and pueblos for investigational and autopsy services. House Bill 742 directs the office of the state medical investigator to provide services to communities of New Mexico citizens and residents living in the boundaries of a federally recognized Indian nation, tribe or pueblo at no charge, when those services are requested by an Indian nation, tribe or pueblo.

The bill directs the state medical investigator to promulgate rules, guidelines and protocols for proper forensic investigation of and the provision of other services related to deaths occurring within the exterior boundaries of an Indian nation, tribe or pueblo, after a government-to-government consultation. These rules are also to address the scope of:

- ordinary and usual services provided at no fee
- extraordinary services for which fees are assessed along with a specific schedule of service fees.

Further, House Bill 742 authorizes the state medical investigator or a district medical investigator to charge fees for services provided on federal military reservations. Fees are not to exceed the cost of services.

Finally, the bill appropriates \$400.0 thousand from the general fund to the board of regents of New Mexico State University for the office of the state medical investigator to conduct forensic investigations and other services when requested by Indian nations, tribes and pueblos located in whole or in part in New Mexico.

The provisions of the bill would be effective July 1, 2007.

**FISCAL IMPLICATIONS**

The HTRC amendment removed the appropriation.

**SIGNIFICANT ISSUES**

According to Department of Indian Affairs, in 2005, OMI conducted 238 forensic investigation

and other services for New Mexico tribal members and 66 similar services for Navajo tribal members residing in Arizona. The cost for New Mexico OMI tribal services was \$595 thousand, while the cost for Navajo Nation tribal members residing in Arizona was \$165 thousand. The total cost for OMI tribal services in 2005 was \$760 thousand.

Department of Indian Affairs also notes the cost for OMI services is determined by the location of death. OMI provides forensic investigations and other services at no cost to the individuals or other agencies for a person who passes away in New Mexico ---- where OMI and the State has jurisdiction (regardless whether they are residents of the State, or legal or illegal immigrants). Tribal governments are charged fees for services rendered.

Currently, a debt of \$254.2 thousand is owed to the OMI by the Navajo Nation for these services. Since March 2006, a moratorium has been in place on Navajo Nation investigations as a result of that billing.

In its FIR, UNM notes the appropriation in the original bill would address autopsy and transportation costs for about 150 investigations in FY07.

Department of Indian Affairs notes on January 1, 2007, the OMI autopsy fee will increase from \$2,500 to \$2,800 and the medical staff consultation fee will increase from \$350 to \$400.

HED notes a base expansion request of \$655.5 thousand was requested by UNM in the HED budget process, but was not recommended for funding. According to *UNM 2007 Legislative Priorities*, “over the past five years, the Office of the Medical Investigator’s (OMI) forensic examination caseload has increased by 20.7 percent, while changes in law enforcement compliance and litigation have placed pressure on OMI pathologists to spend more time on each case. UNM is requesting \$655,460 to hire additional staff to address the current workload.”

Department of Indian Affairs notes in 2002, the state legislature made a \$50.0 non-recurring appropriation to UNM to address OMI services provided to tribes.

## **TECHNICAL ISSUES**

UNM notes “ordinary” and “extraordinary” is determined on a case-by-case basis, and developing codified definitions may not be appropriate.

AW/nt