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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Pinto</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>2/8/2025</u>
<b>SHORT TITLE</b> <u>Native American Ombud Act</u>	<b>BILL NUMBER</b> <u>Senate Bill 308</u>
	<b>ANALYST</b> <u>Ortega</u>

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$2,000.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
IAD	No fiscal impact	\$475.5 to \$975.5	\$475.5 to \$975.5	\$951.0 to \$1,951.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 307

### Sources of Information

LFC Files

Agency Analysis Received From  
 Indian Affairs Department (IAD)  
 Department of Health (DOH)

## SUMMARY

### Synopsis of Senate Bill 308

Senate Bill 308 (SB308) appropriates \$2 million from the General Fund to the Indian Affairs Department (IAD) in fiscal year 2026 for the purpose of establishing the Office of the Native American Ombud to identify, investigate, and resolve concerns related to services provided to Native Americans. The Office of the Native American Ombud will be appointed by the secretary of the Indian Affairs Department (IAD) and will oversee office operations, including investigating complaints, monitoring policy implementation, and recommending legislative or regulatory changes.

The bill states that the office will ensure confidentiality of records related to Native Americans

and provide an annual report detailing concerns, resolutions, and policy recommendations. The bill mandates that all service providers post contact information for the office in a visible location and online, if applicable. IAD must provide legal counsel to the office to assist in its duties. The bill prohibits retaliation against individuals who file concerns and establishes a process for addressing noncompliance.

The effective date of this bill is July 1, 2025.

## **FISCAL IMPLICATIONS**

The appropriation of \$2 million contained in Senate Bill 308 is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the general fund, but the Indian Affairs Department (IAD) will require recurring funds in its operating budget to sustain the implementation of SB308 beyond FY26. The total cost of implementing the bill was estimated by calculating personnel expenses, office space needs, and legal representation requirements.

IAD estimates that hiring an ombudsman at a classified position pay band 80 will result in an annual cost of approximately \$101.5 thousand, including salary, benefits, and incidentals. The bill also requires legal representation for Native Americans, necessitating an office attorney or general counsel at an estimated annual cost of \$124 thousand, according to the department. Depending on the scope of the office's responsibilities, additional attorneys and support staff may be required, potentially costing between \$200 thousand and \$700 thousand in annual costs.

IAD reports that its current office space is at capacity and will require additional leased space to accommodate the new staff, with an estimated annual cost of approximately \$50 thousand. However, final lease expenses may vary depending on location and office requirements. Based on these calculations, the annual cost of implementing SB308 is estimated to range from \$475.5 thousand to \$975.5 thousand, depending on staffing levels and office space requirements.

## **SIGNIFICANT ISSUES**

The statutory duties outlined in SB308 overlap significantly with the existing statutory authority of the IAD. Under NMSA 1978, Section 9-21-7, IAD is responsible for investigating and addressing issues affecting Native American communities, coordinating with local, state, and federal agencies, and advocating for policy changes. The bill's establishment of the Office of the Native American Ombud may duplicate these responsibilities without clearly defining how the office will interact with IAD's existing functions.

IAD notes that SB308 mandates that the department, through the ombud, prepare an annual report on Native American concerns but does not specify where the report must be submitted or whether it should be made public. Additionally, Section 6(B) states that certain information in the report may be published, creating ambiguity about the transparency and accessibility of the report's findings, according to IAD.

IAD also states that the broad language in Section 6 regarding the confidentiality of records raises concerns about compliance with the Inspection of Public Records Act (IPRA). IAD maintains numerous Intergovernmental Agreements (IGAs) with tribes, pueblos, and nations,

many of which are currently considered public records. A blanket confidentiality provision could create legal conflicts and limit public access to important governmental agreements, according to the department.

IAD raises concerns about the requirement in Section 7 that "every person that provides services to Native Americans" must post contact information for the ombud in a visible location. The department notes that it is unclear whether this applies to IAD employees, state agency staff, tribal service providers, or all individuals offering services to Native Americans.

IAD further notes that Section 8 requires the ombud to have legal counsel who does not have a conflict of interest. However, if a conflict arises, IAD could collaborate with another state agency for legal assistance.

IAD points out that the bill's creation of an ombud also raises structural and operational concerns, given that the State-Tribal Collaboration Act already requires each cabinet-level agency to have a tribal liaison. These liaisons are responsible for engaging with tribal governments, producing annual reports on agency interactions with Native communities, and facilitating communication between state and tribal entities. Without clear delineation, the bill may introduce redundancy and create confusion about the respective roles of the ombud, IAD, and existing tribal liaisons.

Additionally, the Department of Health (DOH) notes that the bill assigns the ombud broad investigative and training responsibilities, including monitoring state and federal policies affecting Native Americans and developing certification procedures for ombuds. However, it does not specify funding sources, staffing requirements, or how these functions will be coordinated with existing state and tribal entities.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

IAD notes that Senate Bill 307 (SB307), the Child Ombud Act, proposes the creation of an Office of the Child Ombud within the children's code, which includes oversight related to federal and state child welfare laws affecting Native American families. The selection committee for the ombud position includes a member with expertise in the Indian Child Welfare Act (ICWA) of 1978 and the Indian Family Protection Act, and the office's staff must be trained in tribal laws, culture, and sovereignty. Given the overlapping responsibilities between SB307 and SB308, IAD suggests that clarification is needed to define how these offices will interact, avoid redundancy, and ensure effective coordination in addressing Native American concerns.

AO/hj/SL2