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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/13

SPONSOR Clahchischilliage LAST UPDATED _____ HB 361

SHORT TITLE Legislators & State-Tribal Collaboration SB _____

ANALYST Geisler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		.01, Minimal, See Narrative				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 361 (HB 361) would amend the State-Tribal Collaboration Act to require the involvement of New Mexico legislators in collaborations related to policy, agreements, and programs of the state that directly affect American Indians, tribes, or pueblos. It would also require the Governor to include legislators in her annual summit with tribal leaders

FISCAL IMPLICATIONS

There would be a minor fiscal impact from increased collaboration envisioned by HB 361, primarily in the form of legislative per-diem. Indian Affairs Department (IAD) has concerns that there are no fiscal appropriations requested through HB 361. IAD asserts that there would be a fiscal impact in including the legislators in the state-tribal summit as more attendees would mean a higher cost to hold the event. Currently, IAD does not have part of its budget specifically set aside to meet the costs of the state-tribal summit. Grant funding has been used in years prior. Thus, there is no permanent funding source for the statutorily mandated summit. IAD has requested a special appropriation of \$50 thousand for FY14 to help fund the annual summit.

SIGNIFICANT ISSUES

IAD Provided Background on Collaboration and Annual Summit

New Mexico's tribes, pueblos, and nations (similar to all federal recognized tribes in the U.S.) are recognized as sovereign governments with self-governing powers. The State-Tribal Collaboration Act (STCA), which passed in 2009, was intended to promote effective communication and collaboration; positive government-to-government relations; development, implement policies, agreements and programs; and to formally meet and discuss with each of the tribal governments, their priorities and the impacts of all decisions on their tribal communities and tribal members.

HB 361 amends Section 11-18-3(C) to include legislators in state-tribal collaboration. It is unclear what level of state agency collaboration with legislators would be needed with regard to the development and implementation of policies, agreements and programs of the state agency that affect tribal communities. There are many state agencies that implement tribally-related programs. It is not clear what collaboration with legislators would look like. For example, would a state agency be required to contact a certain legislative committee, or all legislators currently in office? Generally, the Governor, as the state's executive, has direct oversight over the function of her state agencies.

It should be noted that under STCA Section 11-18-4(C), the legislators do receive the annual reports that are required of each state agency by the STCA. IAD compiles the state agency reports and they are required to include:

- 1) The policy the state agency adopted pursuant to the State-Tribal Collaboration Act;
- 2) The names of and contact information for the individuals in the state agency who are responsible for developing and implementing programs of the state agency that directly affect American Indians or Alaska Natives;
- 3) The current and planned efforts of the state agency to implement the policy set forth in Subsection A of Section 11-18-3;
- 4) A certification by the state personnel office of the number of managers and employees of each state agency who have completed the training required by Subsection B of Section 11-18-4;
- 5) A description of current and planned programs and services provided to or directly affecting American Indians or Alaska Natives and the amount of funding for each program; and
- 6) The method the state agency established for notifying employees of the state agency of the provisions of the State-Tribal Collaboration Act.

With regard to the amendment to Section 11-18-4(A) requiring that at the annual state-tribal summit the governor meet with the tribes and with the legislators, it is unclear whether tribal leaders have been consulted in this amendment to the State Tribal Collaboration Act. IAD has found in planning for the yearly summit that tribal leaders enjoy the opportunity to meet executive to executive for this important government to government meeting. The summit is a tribal leader's opportunity to directly bring issues of mutual concern to the attention of the Governor, and vice versa. Under HB 361, would legislators also be able to bring their concerns to the attention of the Governor and to tribal leaders?

In the planning of the previous four state-tribal summits, it has been discussed whether to invite the legislators as spectators, rather than active participants. It has also been discussed whether to invite the Chair of the Interim Indian Affairs Committee, who could then report back to the full committee. IAD does provide a report to the Interim Indian Affairs Committee after the summit on the issues, solutions, and commitments that were addressed. IAD could provide further briefing to the Committee where requested. Another alternative is to hold a legislative summit, between the tribal leaders and the legislators. It is unknown whether these alternatives were discussed with tribal leaders prior to the introduction of HB 361. IAD has noted that certain legislators believe that the summit should remain an executive to executive meeting.

The summit has traditionally been conducted within one eight-hour day, such that IAD has found a general concern amongst tribal leaders and stakeholders that the involvement of legislators could take away from the focus and productivity of the meeting.

Legislators have a variety of venues (committee meetings, public forums, All Indian Pueblo Council, Inc., Ten Southern Governor's, Eight Northern Indian Pueblo Council, and face-to-face meetings) available to use in directly or indirectly contacting the tribal leaders, the state agencies, and the governor.

ADMINISTRATIVE IMPLICATIONS

Under the STCA, all state agencies were required to develop, in consultation with the tribes, state-tribal collaboration policies by December 31, 2009, and did so. It is unclear whether HB 361 would require that all state agencies develop new collaboration policies after consultation with the legislators and the tribes, once again.

OTHER SUBSTANTIVE ISSUES

IAD suggests that “legislators” roles and responsibilities as part of the STCA would need to be defined so as not to pose any possible conflicts of interest when dealing with the state’s governor, state agencies, and Indian nations, tribes, and pueblos.

ALTERNATIVES

As mentioned above, IAD would recommend state-tribal collaboration prior to amending the State-Tribal Collaboration Act.

AMENDMENTS

IAD would recommend that the state-tribal collaboration act be amended to remove the requirement that the Summit be held during the third quarter of the state’s fiscal year for the reason that the legislative session is conducted during that quarter. IAD would then consult with tribal leaders and the governor to find a date agreeable to all.