

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 551

50th Legislature, 1st Session, 2011

Tracking Number: .184472.3

Short Title: Consolidate Indian Affairs Dept. Programs

Sponsor(s): Representative Sandra D. Jeff and Others

Analyst: Ally Hudson

Date: March 15, 2011

Bill Summary:

HB 551 amends, repeals, and enacts sections of the *Indian Affairs Department Act* to consolidate Indian programs within the Indian Affairs Department (IAD).

To begin, HB 551 clarifies that IAD must “collaborate with other state departments or agencies that have an interest or stake in the subject [of Indian conditions and relations within New Mexico] that are being investigated, studied, or considered.” In addition to administratively attaching the American Indian Health Advisory Council to IAD, the bill provides for the assumption of administrative control of the following state agencies:

- the Office of Indian Elder Affairs (OIEA) within the Aging and Long-Term Services Department (ALTSD);
- the Museum of Indian Arts and Culture within the Department of Cultural Affairs;
- the Office of American Indian Health within the Department of Health (DOH);
- the American Indian Postsecondary Education Division within the Higher Education Department; and
- the Intertribal Ceremonial Office in the Tourism Department.

HB 551 also provides for:

- the transfer to IAD of all functions, personnel, appropriations, money, records, furniture, equipment, and other property of the aforementioned agencies;
- all references in law to the aforementioned agencies to be deemed to be references to the recently transferred office in IAD; and
- the transfer of all contractual obligations of the aforementioned agencies to IAD.

Next, the bill creates the Indian Affairs Advisory Council (IAAC) to advise the Secretary of IAD concerning issues within the scope of responsibility of the department, and specifies that the council consist of 16 members appointed by the secretary:

- four representatives from the Navajo Nation;
- one representative from the Mescalero Apache Tribe;
- one representative from the Jicarilla Apache Nation;
- two representatives from southern pueblos;
- two representatives from northern pueblos;

- three urban Indians representing Albuquerque, Gallup, and Farmington;
- one representative from the federal Bureau of Indian Affairs;
- one representative from a Head Start organization; and
- one nontribal representative.

HB 551 further specifies that representatives from all New Mexico tribes, the Office of the Governor, the Legislature, the Secretary of IAD, and the IAAC must meet on a semiannual basis to assist in evaluating, consolidating, and coordinating all activities relating to New Mexico's Indian nations, tribes, and pueblos.

Finally, HB 551:

- repeals the sections of law that create the Indian Affairs Commission and establish its powers; and
- contains an effective date of January 1, 2012.

Fiscal Impact:

HB 551 does not contain an appropriation.

Fiscal Issues:

According to an analysis by the ALTSD, in complying with the requirements of HB 551, IAD and ALTSD would incur additional costs including:

- the addition of 1.5 FTE at ALTSD;
- the addition of two FTE at IAD; and
- a computer software licensing and implementation cost of \$2,000.

According to an analysis by the Museum of Indian Arts and Culture (MIAC), the transfer outlined in HB 551 “could create a negative effect in private funding through the Museum of New Mexico Foundation. [MIAC] would no longer be part of the state-private partnership with the Foundation, which provides program support and funding for collections preservation and stewardship.” The analysis also indicates:

- Since MIAC under IAD would have to maintain the same level of staffing and other expenses to carry out its mission, there would be no anticipated cost savings.
- Numerous services central to the museums' maintenance are provided by the Museum Resources Division of the Department of Cultural Affairs (DCA). Under IAD, these services would still be required and may necessitate additional staff and funding.
- MIAC is a revenue-producing division within DCA. Properly maintaining the museum's revenue-producing capabilities could create an additional management responsibility for IAD.

Regarding grant awards and federal contracts, the MIAC analysis indicates:

- The museum “has nearly \$1 million in outstanding grants and federal contracts that are currently administered by [DCA] and the Museum of New Mexico Foundation.”

- The foundation serves as the fiscal agent for the museum by raising both federal and private funds to support its programming efforts. Many of the grants require a 100 percent match, which may present a hardship for IAD.
- MIAC is accredited by the American Association of Museums. According to the agency analysis, “it is unknown what the implications of being under [IAD] would have on this accreditation status, and how this might affect future funding opportunities.”

Finally, related to the issue of real property, the analysis states:

- MIAC operates three buildings in Santa Fe, with a fourth building opening in summer 2011;
- IAD does not currently own or maintain real property;
- with the acquisition of MIAC, IAD would be financially responsible for the four buildings; and
- it is not clear that IAD can legally own real property.

Substantive Issues:

According to an analysis by the Department of Health (DOH), “the mission of the Office of American Indian Health [OAIH] is to facilitate collaboration between the [department], American Indian populations residing in New Mexico, and other health partners” by:

- providing guidance on issues, treatments, resources, trainings, and health policies;
- increasing public knowledge about American Indian health disparities and leading efforts to address them; and
- facilitating partnerships that improve the health of American Indians in New Mexico.

The DOH analysis further indicates that the American Indian Health Advisory Council (AIHAC) was developed to provide guidance to DOH on health issues affecting American Indian populations residing in New Mexico. Moreover, no funding is connected to the 15-member council. In addition, the analyses from DOH and ALTSD both indicate a conflict with the *State Tribal Collaboration Act*:

- According to DOH, the act requires each state agency to dedicate an FTE as a tribal liaison. OAIH at DOH consists of one staff member who serves as the tribal liaison; and if the transfer outlined in HB 551 were to occur, DOH would be required to hire or transfer the tribal liaison responsibilities to another employee.
- At ALTSD, the director of OIEA serves as the tribal liaison. In order to maintain compliance with both HB 551 and the *State Tribal Collaboration Act*, the department would have to allocate additional staff to serve in this role.

The ALTSD analysis also indicates:

- The Indian Area Agency on Aging, whose responsibilities were assumed by OIEA, was originally moved from IAD due to a concern that it lacked the capacity to meet the program requirements. The purpose of the office is to address the concerns of *Older American Act* providers and the disabled. Returning OIEA to IAD would generate additional costs and risk negative impacts on the quality and efficiency of services.

- The centralization of services is invaluable in helping clients navigate the long-term care system. “With the proposals set forth in HB 551, an additional layer of contract oversight and area plan amendments would likely occur, which would further complicate an already complex system.”
- Finally, ALTSD recommends that the issues outlined in HB 551 “be addressed through those processes set forth in the *State Tribal Collaboration Act* and that a State Tribal Collaboration be convened by [IAD] and affected departments to discuss the bill and the potential impacts to various services in Indian Country in New Mexico.”

Technical Issues:

According to the MIAC analysis, “if the [museum] ceases to be a division of DCA, then it cannot function as the repository for materials recovered under the *Cultural Properties Act* unless the [act] is amended to reflect the new organizational location of the Museum. The Museum currently has custody of about 8,000 cubic feet of bulk archaeological collections and 15,000 cataloged artifacts recovered from state lands.”

Background:

The MIAC analysis provides a brief background of the museum:

- The Museum of Indian Arts and Culture is an outgrowth of the Laboratory of Anthropology, which was deeded to the state of New Mexico on September 30, 1947.
- Originally, the collections focused on the archaeology and anthropology of New Mexico and the collection and preservation of Southwest Indian art. Throughout the years, the collections grew along with the need to have a larger space for their display.
- In 1986, MIAC opened to the public. The creation of the museum involved consultations with tribal representatives from the Southwest who continue to serve on the museum’s Indian Advisory Panel.
- In 1996, the museum was expanded, and the new wing opened with a core exhibition titled “Here, Now, and Always.” The core exhibition is considered the first in the nation to be from the Indian perspective and to incorporate the native voice.
- Presently, the museum continues its partnerships with Indian peoples throughout New Mexico and promotes Indian arts with its annual Native Treasures Indian Arts Festival.

Related Bills:

HB 255 *Cultural Affairs and Tourism Act*
HJM 6 *Indian Health Service as Entitlement Program*
SM 52 *Indian Education Act Effectiveness*