

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 361

51st Legislature, 1st Session, 2013

Tracking Number: .191719.1

Short Title: Legislators & State-Tribal Collaboration

Sponsor(s): Representatives Sharon Clahchischilliaage and James Roger Madalena and Sandra D. Jeff, and Others

Analyst: Kevin Force

Date: February 20, 2013

Bill Summary:

HB 361 proposes to amend the *State-Tribal Collaboration Act* (STCA) to include legislators among those entities with whom state agencies must consult when carrying out the requirements of the act. Specifically, HB 361 requires:

- the inclusion of legislators in collaborations related to policy, agreements, and state programs that directly affect Indian nations, tribes, and pueblos; and
- the Governor to include legislators in the annual state-tribal summit.

Fiscal Impact:

HB 361 does not contain an appropriation.

Fiscal Issues:

The Indian Affairs Department (IAD) is concerned that there are no appropriations requested through HB 361:

- There would be a fiscal impact in including the legislators in the state-tribal summit, as more attendees would result in higher event costs.
- Currently, IAD does not specifically set aside part of its budget to meet the costs of the state-tribal summit. (Grant funding has been used in prior years.)
- Thus, there is no permanent funding source for the statutorily mandated summit.
- IAD has requested a special appropriation of \$50,000 for FY 14 to help fund the annual summit.

Substantive Issues:

According to IAD:

- It is unclear:
 - what level of collaboration between state agencies and legislators would be necessary to fulfill the requirements of the bill with regard to the development and

- implementation of policies, agreements, and programs that affect tribal communities; and
 - what form this collaboration should take. (For example, would a state agency be required to contact a certain legislative committee or all legislators currently in office?)
- Generally, the Governor has direct oversight over state executive agencies.
- The STCA already mandates that the Legislature be supplied with the annual reports that are required of each state agency, which IAD compiles.
- The requirements in HB 361 that legislators be included in the annual summit between tribal leaders and the Governor raises concerns:
 - It is unclear if tribal leaders had been consulted with regard to this requirement.
 - The annual summit is an opportunity for tribal leaders to bring issues of mutual concern directly to the Governor, executive to executive, and it is uncertain whether it would also become a chance for legislators to bring their concerns to the attention of the executives.
 - In the planning of the previous four state-tribal summits, it had been discussed whether to invite, variously:
 - the legislators as spectators, rather than active participants; or
 - the Chair of the Interim Indian Affairs Committee, who could then report back to the full committee.
 - Traditionally, the summit is conducted within one eight-hour day, and inclusion of legislators may reduce the effectiveness and efficiency of the meeting.
 - IAD provides a report to the Interim Indian Affairs Committee on the issues, solutions, and commitments that were addressed at the summit, and the IAD could provide additional information to the committee when requested.
 - An alternative is to hold a separate legislative summit, between the tribal leaders and the legislators.
 - IAD has noted that certain legislators believe that the summit should remain an executive to executive meeting.
 - Legislators currently have a variety of opportunities available to use in communication with tribal leaders.¹
 - It would be preferable to remove the requirement that the summit be held in the third quarter of the fiscal year, as that is when the legislative session is convened.
- The roles and responsibilities of legislators, with regard to the STCA, should be better defined, so as to avoid potential conflicts of interest when dealing with other governmental entities.

Technical Issues:

IAD notes that when originally enacted, the STCA required all state agencies to develop collaboration policies. The language of the bill is unclear as to whether they would be required to do so again, or if current agency policies with regard to tribal collaboration would suffice to satisfy the requirements of HB 361.

¹ For example, committee meetings, public forums, All Indian Pueblo Council, Inc., Eight Northern Indian Pueblo Council, etc.

Background:

In the spring of 2008, IAD met individually with tribal leaders to discuss each tribe's primary issues and policy priorities. Tribal leaders noted a need to improve and strengthen government-to-government relations between the state and tribes, pueblos, and Indian nations, which are recognized as sovereign governments with attendant powers. Tribal leadership named formal consultation and more frequent communication with the Governor and IAD as ways to improve relations between New Mexico and the 22 tribes within the state. IAD began working towards a legislative proposal to address these issues. The *State-Tribal Collaboration Act*, which passed in 2009², was the result and was intended to promote:

- effective communication and collaboration;
- positive government-to-government relations; development and implementation of effective policies, agreements and programs;
- cultural competency in providing effective services to American Indians and Alaska Natives; and
- formal discussion between the state and each of the tribal governments, regarding their priorities and the impact of governmental decisions on their tribal communities and members.

Committee Referrals:

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Related Bills:

SB 398 *Local Government Revenue-Sharing Act*

² Laws 2009, chapter 15