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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
55th Legislature, 1st Session, 2021

Bill Number	<u>HB39</u>	Sponsor	<u>Roybal Caballero/Steinborn</u>
Tracking Number	<u>.218414.1</u>	Committee Referrals	<u>HSEIC/HAFC</u>
Short Title	<u>Piro/Manso/Tiwa Tribal Recognition</u>		
Analyst	<u>Juliani</u>	Original Date	<u>1/26/2021</u>
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BILL SUMMARY

Synopsis of Bill

House Bill 39 (HB39) extends state recognition and acknowledgement to the Piro/Manso/Tiwa Indian tribe of the Pueblo of San Juan de Guadalupe. The bill provides that no laws of the state of New Mexico of general application extended to federally recognized Indian nation, tribes, and pueblos shall be applicable to the Piro/Manso/Tiwa Indian tribe, Pueblo of San Juan de Guadalupe and its members.

FISCAL IMPACT

The bill includes no appropriation or any discernible costs to the state.

SUBSTANTIVE ISSUES

A Tribal History. The Piro/Manso/Tiwa Indian Tribe of San Juan de Guadalupe Pueblo is a present-day Native American tribal community in Tortugas whose ancestors were from the Piro, Manso, and Tiwa Indians, inhabitants of the region in and around the Mesilla Valley. Descendants from the first pueblo people who Spanish explorer Juan de Oñate met in 1598 near present-day Las Cruces, members of the Piro/Manso/Tiwa Indian Tribe have maintained their community, culture, and traditions without a reservation or secure land base. In the early 1970s, the Piro/Manso/Tiwa Indian Tribe began the process of seeking federal recognition through the Bureau of Indian Affairs, filing a formal petition for recognition in 1979. The petition has yet to be granted and the process is ongoing.

State Recognition of Tribes. States' government-to-government relationships with tribes continue to evolve, including formal recognition of tribes' sovereign government status. State recognition of Native American tribes has usually been achieved through legislative action and can be an important means to building stronger collaboration between states and tribes.

State recognition does not confer the same benefits to tribes as does federal recognition; it only acknowledges tribal status within the state but often leads to increased opportunities for

collaboration between tribal and state or local entities. State-recognized Indian tribes are not necessarily federally recognized, and federal recognition has always been the primary way through which tribes seek politico-legal recognition.

Many tribes seek state recognition, however, because it acknowledges their historical and cultural contributions and often authorizes tribal participation on state commissions that typically make policy decisions that affect Native Americans. State recognition can, but does not necessarily, qualify a tribe for federal and state funding. Four federal agencies – the U.S. departments of Housing and Urban Development, Labor, Education, and Health and Human Services – have the statutory and regulatory authority to provide funding for state-recognized tribes.

Federal Recognition of Tribes. Currently 574 federally recognized Native American and Alaska Native tribes exist across 35 states. Federal recognition gives tribes an elevated politico-legal status and requires the federal government to provide certain benefits. Federally recognized tribes have a government-to-government relationship with the United States. They both possess certain inherent rights of self-government and are entitled to receive selected federal benefits, services and protections because of their special relationship with the United States.

Federal recognition allows for additional legal protections for traditional forms of religion and language and permits tribes to have their reservation lands placed in trust and hence protected by the federal government from being purchased or taken by non-Indians. This trust relationship means federal authorities will protect tribes' sovereign status, lands and property, and the rights of their people by recognizing this government-to-government relationship.

Tribal Recognition in New Mexico. While other states have a formal process of recognizing tribes or pueblos, New Mexico has not identified an explicit process for state recognition of tribes. Statute suggests the state defines tribes based on whether a tribe or pueblo is recognized federally. NMSA 1978 Sections 11-18-1 through 11-18-5 provides for the State-Tribal Collaboration Act, which is silent regarding a formal state recognition process but defines Indian nation, tribe, or pueblo as “any federally recognized Indian nation, tribe, or pueblo located wholly or partially in New Mexico.” However, this type of deference to federal law and precedent in matters related to Indian affairs is not unusual and does not preclude the state from establishing a formal process for recognizing tribes.

OTHER SIGNIFICANT ISSUES

Eleven states – Alabama, Connecticut, Georgia, Louisiana, Maryland, Massachusetts, New York, North Carolina, South Carolina, Vermont and Virginia – have officially recognized 63 tribes. Since 2010, at least 20 states have considered legislation that would adopt a formal process for recognizing tribes. North Carolina, Alabama, Connecticut, and Vermont have each established a formal process through legislation in for recognizing tribes and providing resources to the tribal populations.

In North Carolina, state statute authorizes the commission on Indian Affairs to legally recognize tribes and defines appropriate procedures. Although the state does not provide financial support to tribes, the commission allows for key stakeholder engagement in areas such as education and housing. The Alabama Indian Affairs Commission is authorized to establish state recognition procedures in administrative rules and serve as a liaison to many state agencies. In Vermont, the most recent state to establish a formal recognition process through legislation in 2010, the state

Commission on Indian Affairs is responsible for recognizing tribes and providing resources to the tribal populations.

Some states without a formal process for tribal recognition have acknowledged the historical and cultural contribution of tribes, including through the following ways:

- The Texas Legislature adopted resolutions to honor particular tribes that are not federally recognized.
- The Montana Legislature adopted resolutions supporting the federal recognition of the Little Shell Band of Chippewa Indians, including tribal eligibility for certain state grant programs in state statute.
- California requires its Native American Heritage Commission to keep a list of non-federally recognized tribes that meet certain criteria with whom city and county governments must consult when they amend a general plan.

In 2016, the county commissioners in Doña Ana County voted to support efforts of the Piro/Manso/Tiwa in its federal recognition bid.

TECHNICAL ISSUES

The language stating, “No laws of the state of New Mexico of general application extended to federally recognized Indian nations, tribes and pueblos shall be applicable to the Piro/Manso/Tiwa Indian tribe” is ambiguous.

SOURCES OF INFORMATION

- LESC Files

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