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SENATE BILL 308

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Shannon D. Pinto and Martha Garcia

AN ACT

RELATING TO NATIVE AMERICANS; ENACTING THE NATIVE AMERICAN
OMBUD ACT; ESTABLISHING THE OFFICE OF THE NATIVE AMERICAN
OMBUD; PROVIDING DUTIES; REQUIRING INVESTIGATION AND RESOLUTION
OF CONCERNS; PROVIDING FOR THE CONFIDENTIALITY OF RECORDS;
PROVIDING POTENTIAL ACTIONS FOR NONCOMPLIANCE; REQUIRING AN
ANNUAL REPORT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Native American Ombud Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Native American Ombud Act:

A. "department" means the Indian affairs
department;

B. "Native American" means:

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1 (1) an individual who is a member of any
2 federally recognized Indian nation, tribe or pueblo or who is
3 an Alaska native; or

4 (2) an individual who has been deemed eligible
5 for services and programs provided to Native Americans by the
6 United States public health service or the United States
7 department of the interior bureau of Indian affairs;

8 C. "Native American ombud" means the individual
9 appointed by the secretary pursuant to the Native American
10 Ombud Act;

11 D. "office" means the office of the Native American
12 ombud; and

13 E. "secretary" means the secretary of Indian
14 affairs.

15 SECTION 3. [NEW MATERIAL] CREATION OF THE OFFICE OF THE
16 NATIVE AMERICAN OMBUD--GENERAL DUTIES OF THE OFFICE.--

17 A. The "office of the Native American ombud" is
18 created within the department.

19 B. The secretary shall appoint the "Native American
20 ombud", who shall head the office and supervise the ombuds and
21 other staff of the office. The Native American ombud may
22 contract for services to assist the office in conducting its
23 duties and may use the services of volunteers.

24 C. The Native American ombud shall:

25 (1) identify, investigate and resolve concerns

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1 pertaining to Native Americans that are filed with the office;

2 (2) ensure that Native Americans have regular
3 and timely access to the services provided through the office
4 and receive timely responses from representatives of the
5 office;

6 (3) identify any patterns of concerns that
7 emerge regarding governmental services provided to Native
8 Americans, including civil and criminal legal advice and
9 representation, and recommend strategies for improvement in
10 providing such services to Native Americans;

11 (4) ensure that office staff, contractors and
12 volunteers are trained in:

13 (a) federal, state and local laws, rules
14 and policies with respect to Native Americans;

15 (b) investigative techniques;

16 (c) dispute resolution; and

17 (d) such other matters as the office
18 deems appropriate;

19 (5) develop procedures for the certification
20 of ombuds; provided that an employee or contractor shall not
21 investigate a concern filed with the office unless that person
22 is certified by the office;

23 (6) analyze, comment on and monitor the
24 development and implementation of federal and state laws, rules
25 and other governmental policies and actions that pertain to

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1 Native Americans;

2 (7) recommend changes to laws, rules, policies
3 and actions pertaining to the rights of Native Americans as the
4 office determines to be appropriate;

5 (8) facilitate public comment on proposed
6 laws, rules, policies and actions; and

7 (9) provide information to public and private
8 agencies, legislators and other persons regarding the problems
9 and concerns of services available to Native Americans and make
10 recommendations related to those problems and concerns.

11 SECTION 4. [NEW MATERIAL] ANNUAL REPORT--CONTENTS.--No

12 later than December 1 of each year, the office shall prepare a
13 report that includes:

14 A. actions taken by the office in the year for
15 which the report is prepared;

16 B. concerns identified by or on behalf of Native
17 Americans, resolution of the concerns and the effectiveness of
18 the resolution processes;

19 C. recommendations for improving the quality of
20 services provided to Native Americans and protecting the rights
21 of Native Americans; and

22 D. policy, regulatory and legislative
23 recommendations to solve identified concerns related to Native
24 Americans, to improve processes of resolutions of concerns, to
25 improve the quality of services provided to Native Americans,

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1 to protect the rights of Native Americans and to remove
2 barriers to services intended for Native Americans.

3 SECTION 5. [NEW MATERIAL] INVESTIGATION AND RESOLUTION OF
4 NATIVE AMERICAN CONCERNS.--The office shall identify,
5 investigate and seek to resolve concerns communicated by or on
6 behalf of Native Americans. If the office does not address a
7 concern, the office shall notify the concerned person of the
8 decision not to address the concern and the reasons for the
9 decision.

10 SECTION 6. [NEW MATERIAL] CONFIDENTIALITY OF
11 INFORMATION.--

12 A. All files and records maintained by the office
13 that pertain to Native Americans are confidential and not
14 subject to the provisions of the Inspection of Public Records
15 Act. The Native American ombud shall not disclose the identity
16 of a concerned person about whom the office maintains files or
17 records unless:

- 18 (1) the concerned person consents in writing
19 to the disclosure;
- 20 (2) the concerned person gives oral consent
21 that is documented immediately in writing by a representative
22 of the office; or
- 23 (3) disclosure is ordered by a court.

24 B. The annual report required pursuant to Section 4
25 of the Native American Ombud Act may be based on confidential

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1 information and may be published or furnished to the public,
2 but the report shall not identify individual Native Americans
3 directly or indirectly nor violate the privileged or
4 confidential nature of the relationship and communications
5 between the Native American and the office.

6 SECTION 7. [NEW MATERIAL] POSTING AND DISTRIBUTION OF
7 OMBUD INFORMATION.--Every person providing services to Native
8 Americans shall post in a conspicuous location a notice
9 regarding the office that contains a brief description of the
10 services provided by the office and the name, address and phone
11 number of the office and shall post it online on the person's
12 website, if applicable. The form of the notice shall be
13 approved by the office.

14 SECTION 8. [NEW MATERIAL] AVAILABILITY OF LEGAL COUNSEL
15 TO THE OFFICE.--The department shall ensure that adequate legal
16 counsel is available and is able, without conflict of interest,
17 to:

18 A. provide advice and consultation to the office
19 needed to protect the rights of Native Americans; and

20 B. assist the office and contractors in the
21 performance of the official duties of the Native American ombud
22 and representatives.

23 SECTION 9. [NEW MATERIAL] INTERFERENCE WITH THE OFFICE
24 AND RETALIATION PROHIBITED--POTENTIAL ACTIONS FOR
25 NONCOMPLIANCE.--

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1 A. A person shall not willfully interfere with the
2 lawful actions of the office.

3 B. A person shall not institute discriminatory,
4 disciplinary or retaliatory action against any Native American
5 for filing a concern with, providing information to or
6 otherwise cooperating with the office.

7 C. If a person fails to comply with the provisions
8 of the Native American Ombud Act:

9 (1) the office shall report the noncompliance
10 to the department;

11 (2) the office shall collaborate with the
12 department to access processes and resources to address Native
13 American services concerns; and

14 (3) the office shall collaborate with the
15 department to identify further appropriate actions to be taken
16 in response to the report, which may include a corrective
17 action plan or any other administrative action that the
18 department is authorized to take to ensure that Native
19 Americans receive the appropriate services required by state
20 law. The office shall provide a letter to the concerned person
21 explaining the actions the department will take.

22 **SECTION 10. APPROPRIATION.**--Two million dollars
23 (\$2,000,000) is appropriated from the general fund to the
24 Indian affairs department for expenditure in fiscal year 2026
25 for expenses to be incurred in establishing the office of the

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1 Native American ombud. Any unexpended or unencumbered balance
2 remaining at the end of fiscal year 2026 shall revert to the
3 general fund.

4 SECTION 11. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2025.

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