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FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/11

SPONSOR Jeff LAST UPDATED _____ HB 551

SHORT TITLE Consolidate Indian Affairs Dept. Programs SB _____

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
\$87.6	\$37.0		General Fund -- Intertribal ceremonial transferred from TD to IAD

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	* see narrative	* see narrative	Recurring	Enterprise funds -- Museum of Indian Arts and Culture

(Parenthesis () Indicate Revenue Decreases)

* DCA/Indian Arts and Culture Museum director cautions of an unintended consequence of this bill as the Museum might lose to direct and indirect financial support of the Museum of New Mexico Foundation. See discussion under "Other Significant Impact"

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Indian Elderly pgm.		\$125.0	\$125.0	\$250.0	Recurring	ALTSD operating (General Fund)
Indian Elderly pgm.		\$242.0	\$242.0	\$484.0	Recurring	IAD operating (General Fund)
Indian Affairs Advisory Council		\$15.0	\$15.0	\$30.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Tourism Department (TD)
Department of Health (DoH)
Department of Cultural Affairs (DCA)
Aging and Long Term Services (ALTSO)

Responses Not Received From

Indian Affairs Department (IAD)
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 551 proposes to consolidate various programs and agencies within the administrative control of the Indian Affairs Department (IAD). Programs to be moved under the administrative control include the following:

- the Office of Indian Elder Affairs, which currently is within the Aging and Long-Term Services Department (ALTSD);
- the Museum of Indian Arts and Culture Division (currently in the Cultural Affairs Department)
- the Office of American Indian Health (currently in the Department of Health)
- the American Indian Post-Secondary Education Division (currently in the Higher Education Department); and
- the Intertribal Ceremonial Office (currently in the Tourism Department).

The bill would create an Indian Affairs Advisory Council, which would be administratively attached to the Indian Affairs Department. This council would advise the Secretary concerning issues within the scope of responsibilities of the Department. It would consist of representatives from the Navajo Nation, the Mescalero Apache Tribe, the Jicarilla Apache Nation, the pueblos, and urban Indians representing urban areas, appointed by the Secretary with input from the tribes.

On January 1, 2012, all functions, personnel, appropriations, money, records, furniture, equipment, and other property of the five entities over which the Indian Affairs Department would assume control would be transferred to that department. All contractual obligations of those entities would be transferred to the Indian Affairs Department effective January 1, 2012.

FISCAL IMPLICATIONS

This transfer of administrative control is unlikely to save money or, apparently, to improve service delivery. In several cases, the program referenced in the bill is not autonomous, but is dispersed throughout the host agency. Recreating the broad range of services would be duplicative and inefficient.

- Moving the Office of Indian Elder Affairs out of ALTSD would require adding FTE and budget at both agencies to comply with the requirements of the legislation as well as meet current state and federal requirements. This includes adding 1.5 FTE at ALTSD (1.0

FTE compliance specialist - range 65, \$80,000 annual cost and 0.5 FTE tribal liaison - range 70, \$45,000 annual cost.) Two additional FTE are needed at IAD (compliance specialist – range 65, \$80,000 annual cost and database coordinator -range 65, \$80,000 annual cost.) There also would be a computer software licensing and implementation cost of \$2000.

- There would be no anticipated cost savings associated with transferring administrative responsibility for the Museum of Indian Arts and Culture from DCA to IAD. Numerous services integral to the Museum's operations, such as exhibitions design, development and installation; marketing and promotion; and conservation, are currently provided by the Museum Resources Division of the Department of Cultural Affairs. Under the Indian Affairs Department, these services would still be required, and would most likely necessitate the addition of staff and funding.
- Transferring the Intertribal Ceremonial Office, which is currently attached to the Tourism Department (TD), would be possible and the appropriations impact is shown in the appropriations table above. A current Memorandum of Understanding (MOU), executed between TD and McKinley County expires June 30, 2011. TD transferred \$83,204 from the Intertribal Ceremonial fund to McKinley County to support the 2010 Ceremonial. This transfer amount was the appropriated amount of \$87,600, less audit cost of \$4,396. The House Appropriations and Finance Committee has adopted the Legislative Finance Committee FY 2011-2012 budget recommendation (\$37,000) for the Intertribal Ceremonial Office.
- The Office of American Indian Health at the Department of Health consists of one staff person who also serves as the Department's tribal liaison. This bill would require transferring 1 FTE and approximately \$80,000. However, the State-Tribal Collaborative Act of 2009 requires DoH to maintain the equivalent of 1 FTE as a tribal liaison. The bill does not relieve the DoH of its obligation pursuant to the State-Tribal Collaborative Act. No op bud or appropriation impact is noted in the tables for this reassignment of administrative responsibility.
- Reassigning the American Indian Post-Secondary Education Division (currently in the Higher Education Department) to IAD would have budgetary consequences of unknown magnitude. HED also has a responsibility to maintain a tribal liaison and might not have any appropriation to transfer.
- Non-government members of the new Indian Affairs Advisory Council would be entitled to per-diem and mileage as provided for nonsalaried public officers. This is shown as an op bud impact of \$15.0.

SIGNIFICANT ISSUES:

Office of Indian Elder Affairs – comments by ALTSD:

The Indian Area Agency on Aging, whose responsibilities were assumed by the Office of Indian Elder Affairs, was originally moved from the Indian Affairs Department due to concern that it lacked the capacity to meet the program requirements. In this regard and in response to improvements made under the Aging and Long Term Services Department, the providers of the IAAA requested that legislation be included in the enabling act to create the Office of Indian Elder Affairs. The purpose is to have this office operate in an environment that is technically and professionally prepared to address the concerns of Older American Act providers and the disabled. Moving the Office of Indian Elder Af-

fairs to the Indian Affairs Department seems to return to a system that was previously unable to support the compliance and technical needs.

Resources supporting state-funded Older Americans Act programs are limited. Many supportive services that the Office of Indian Elder Affairs receives are currently provided by various specialty units within the Aging & Long Term Services Department. These include program assessments, Nutrition training, Network Trainings, administrative support services, Aging and Disability Resource Center service outreach to help provide technical support to clients, and in-house support on Medicaid issues that may affect Native American seniors or disabled persons. The centralization of services is invaluable in helping clients navigate the long-term care system and aging network resources. The mission in serving Tribal communities is accomplished with a minimum of bureaucratic layers.

The Tourism Department supports the relocation of the Intertribal Ceremonial Office to IAD as follows:

Native American arts and culture remain a main reason visitors come to New Mexico. Native American artists – dancers, jewelers, potters, sculptors, painters, wood carvers and others – offer the state’s visitors and residents a genuine cultural experience found nowhere else in the world. The beauty, enthusiasm and tradition of New Mexico’s Native American people are most evident through their cultural resources and heritage. This heritage is an integral part of life in the Land of Enchantment.

TD’s Indian Tourism Program promotes those tribal communities and attractions open to visitors support with product development; conducts ongoing outreach and promotion with/and for tribal communities; assists in data collection and analysis; and attempts to secure equitable Native American representation and funding in the tourism industry through meaningful consultation with New Mexico’s twenty-two tribes and the state’s American Indian organizations.

After having worked with the Intertribal Ceremonial Office for the past several years, TD feels that the Office and related activities should be exclusively operated and controlled by an independent, not-for-profit board such as is the case with the Albuquerque Balloon Fiesta, The Gathering of Nations, The Whole Enchilada Fiesta, The Santa Fe Indian Market, The Deming Duck Race, the Santa Fe Spanish Market etc. Although most of these organizations have received financial support through various TD programs, none are state-funded agencies, as is the case of the Intertribal Ceremonial Office.

DOH notes the following:

HB 551 would transfer the Office of American Indian Health and the American Indian Health Advisory Council from the Department of Health to IAD. The mission of the Office of American Indian Health is to facilitate collaboration between the New Mexico Department of Health, American Indian populations residing in New Mexico, and other health partners to promote health and sound health policy, improve health services systems and assure that essential public health functions and safety net services are available to American Indians in New Mexico.

The Office of American Indian Health at the Department of Health consists of one staff person who also serves as the Department’s Tribal Liaison. The State-Tribal Collabora-

tion Act (2009) requires each state agency to dedicate a full-time-equivalent position as a tribal liaison. The tribal liaison would ensure ongoing communication with the tribes and serve as a contact person for tribes and other state agencies regarding the agencies programs and policy initiatives. It also provides for Native American issues and needs to be conveyed directly to the office of the Secretary or agency director. If the transfer were enacted DOH would be required to hire or transfer the Tribal Liaison responsibilities to another state employee.

The American Indian Health Advisory Council was created five years ago at the request of the Secretary of Health. This Council was developed to provide guidance to the Department on health issues impacting American Indian populations residing in New Mexico. This Council consists of 15 members. There is no funding connected to this Council.

American Indians have a special relationship with the federal government and the State of New Mexico; there are 22 Tribes, Nations and Pueblos that exist by statute, and are viewed as governments that interact with the State and the federal government on a government to government level. HB551 could promote one stop shopping concept with Indian Health issues that cuts across all state agencies. However, many of DOH programs incorporate strategies that address the health needs of American Indians. The Office of American Indian Health and the American Indian Health Council assist in identifying gaps and serving as a conduit from tribal communities to improve DOH programming. HB551 could remove the Department's direct link to tribal communities.

PERFORMANCE IMPLICATIONS

Currently the Director of the Office of Indian Elder Affairs also serves as the Tribal Liaison for the Aging and Long Term Services Department. This is consistent with the State-Tribal Collaboration Act, which was enacted in 2009. Based on the provisions of this bill, the Aging and Long Term Services Department would have to allocate additional staff to honor its obligation pursuant to the STCA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 29 consolidates the Economic Development Department and the Tourism Department (including the Intertribal Ceremonial Office) into the Commerce Department.

HB 255 consolidates the Department of Cultural Affairs and the Tourism Department (including the Intertribal Ceremonial Office) into the Cultural Affairs and Tourism Department.

HB 189 merges Aging and Long-Term Services Department (ALTSD) programs, property and finances into the Human Services Department (HSD). The Office of Indian Elder Affairs would become an Office under HSD

OTHER SUBSTANTIVE ISSUES

The Museum of Indian Arts and Culture director notes the likelihood of unintended consequences:

... the Museum is a revenue-producing division within Cultural Affairs through its admissions, facility rentals, federal and interdepartmental contracts, and the Museum Hill Café lease which covers the annual utilities, supplies, equipment rentals and purchases.

Properly maintaining the Museum’s revenue-producing capabilities would create an additional financial management burden/responsibility on Indian Affairs.

The transfer would also create a negative effect in overall private funding through the Museum of New Mexico Foundation, the long-established, private fundraising support organization for the Museum of New Mexico’s four state-run museums in Santa Fe. The Museum of Indian Arts and Culture would no longer be part of this state-private partnership with the Foundation which provides program support and funding for collections preservation and stewardship.

The Museum of Indian Arts and Culture has nearly \$1 million in outstanding grants and federal contracts that are currently administered by the Department of Cultural Affairs and the Museum of New Mexico Foundation. The Museum of New Mexico Foundation plays a major role serving as fiscal agent for the Museum to raise both federal and private funds to support its programming efforts. For example, in January 2011 the Museum received a “Save America’s Treasures” grant in the amount of \$550,000 in order to purchase storage shelving and cabinets for the new repository for the state’s archaeological collections. This grant requires a 100 percent match which may present a hardship for the Indian Affairs Department. The Museum of Indian Arts and Culture and the Museum of New Mexico Foundation are already in the process of putting a strategy together for raising these funds. Without access to the Foundation, the Museum would no longer have access to the level of outside funding support it currently receives for educational programs and exhibitions. The Indian Affairs Department would have to cover these additional costs in its annual budget.

The New Mexico Cultural Properties Act (18-6-1 through 18-6-17 NMSA 1978) provides for the preservation and protection of New Mexico’s historical and cultural heritage, including archaeological sites and antiquities, through a system of governmental oversight, including the issuance of permits to conduct archaeological investigations. Section 18-6-6, stipulates that “the Cultural Affairs Department shall be the depository for all collections made under the provisions of the Cultural Properties Act,” and the Museum of Indian Arts & Culture is the division designated within DCA to serve as the repository for archaeological materials from lands owned or controlled by the state of New Mexico or one of its political sub-divisions.

If the Museum of Indian Arts and Culture ceases to be a division of DCA, then it cannot function as the repository for materials recovered under the Cultural Properties Act unless the NM Cultural Properties 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.

DOH notes significant health disparities for American Indians:

...in New Mexico, the highest health disparities for American Indians when compared to other racial/ethnic groups have the following health indicators -- deaths related to alcohol, deaths related to diabetes, homicide, motor vehicle deaths, pneumonia, and influenza deaths, youth obesity, late or no prenatal care, and youth suicide.

ALTERNATIVES

The State-Tribal Collaboration Act (2009) requires each state agency to dedicate a full-time-equivalent position as a tribal liaison. One alternative to this bill is to ensure adequate resources and implementation of the State-Tribal Collaboration Act.

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