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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/09
 LAST UPDATED 2/13/09 HB _____

SPONSOR Papen

SHORT TITLE Official State Guitar SB 52/aSIAC

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Cultural Affairs (DCA)
 State Treasurer's Office (STO)
 Department of Indian Affairs (DIA)

SUMMARY

Synopsis of SIAC Amendment

The Senate Indian Affairs Committee amendment replaces "Pimentel Rising Sun" with "New Mexico Sunrise" as the descriptor of the proposed official guitar.

Synopsis of Original Bill

Senate Bill 52 adopts the Pimentel Rising Sun guitar as the state of New Mexico's official guitar.

FISCAL IMPLICATIONS

The Department of Cultural Affairs notes that though there is no appropriation associated with this bill and assumes that the Pimentel family would gift this particular guitar to the state of New Mexico for this official designation. It is possible that there might be some unknown costs associated with publicizing the adoption of this guitar.

OTHER SUBSTANTIVE ISSUES

The Department of Cultural Affairs observes that there are long-term implications for the entire concept of an official state guitar. The state flower, tree, song, question (red or green), etc. are items that will last in perpetuity. A “state guitar” is a specific object that would pose particular conservation and longevity issues.

The Department of Cultural Affairs’ analysis also raises certain questions about the state adopting an instrument that may remain in production for sale. If the guitar is unique it could become part of the permanent collection of a state museum, such as the New Mexico History Museum or the Museum of International Folk Art. If it is a production musical instrument in an entire product line of guitars, the adoption of this guitar could possibly violate Article IV Section 26 of the New Mexico Constitution. This article states in part, “the legislature shall not grant to any corporation or person, any rights, franchises or privileges, immunities and exemptions, which shall not, upon the same terms and under like conditions, inure equally to all persons or corporations.”

The Department of Indian Affairs provides some observations about the implications of the state’s recognition and use of the Zia symbol as explained below which could create a legal liability for the state.

The Pimentel Rising Sun guitar utilizes the Zia sun symbol as decoration throughout the headstock and fret board of the guitar. Recognized as a symbol of New Mexico, the Zia sun symbol is also a distinctive and sacred symbol of Pueblo of Zia. The symbol reflects the sacred and religious philosophy of the Zia people, and according to former Governor Amadeo Shije, “It represents the tribe itself.” Additionally, the symbol recalls the four directions, four seasons, four phases of the day, and the four stages of life for the Zia people-childhood, young/youthhood, adulthood, and old age.

The Tribal Council of Zia has passed a resolution declaring the three- and four-pronged symbol an official insignia of the Pueblo of Zia, and the tribe has strongly expressed its concern to both the federal government and State of New Mexico about the use of the Zia sun symbol for commercial and other purposes. In a 1999 testimony to the Department of Commerce, Patent and Trademark Office, Governor Shije asked the department to protect the official insignia or symbols of the sovereign tribe of Zia as much as it would protect the symbol or insignia of other municipalities, states, and foreign governments. The Pueblo of Zia has also worked with the State through the establishment of the Zia Sun Symbol Task Force in 2004 to “resolve any differences that may exist surround the state flag and the State’s use of the sun symbol.” Because of these past issues, the use of the Zia sun symbol on a commercially made product, like the Pimentel Rising Sun guitar, may raise significant concerns for the Pueblo of Zia.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state will not have an official guitar.

CH/svb