

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC's office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT



SPONSOR: Varela DATE TYPED: 02/06/02 HB HJM 88

SHORT TITLE: Study Office of Cultural Affairs SB _____

ANALYST: Gonzales

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SJM 5

SOURCES OF INFORMATION

LFC Files
 Attorney General
 Office of Cultural Affairs

SUMMARY

Synopsis of Bill

Senate Joint Memorial 88 requests the Legislative Council to designate an appropriate interim committee to:

- (1) review statutes governing the Office of Cultural Affairs and entities under its jurisdiction;
- (2) review other matters relating to the Office of Cultural Affairs and entities under its jurisdiction, including:
 - a. organization
 - b. policies
 - c. relationships
 - d. authority
 - e. regents and their responsibilities
 - f. employee competencies
 - g. the role of the sensitivity committee

- h. duties under the Open Meetings Act
 - i. rights and appeals process of citizens and notification of meetings
- (3) hold hearings; and
- (4) make appropriate statutory revisions and other recommendations, if any, to the first session of the forty-sixth legislature.

Significant Issues

Due a recent controversial exhibit displayed at the Folk Art Museum, many policies and procedures currently in place at the Office of Cultural Affairs are now being questioned, including more oversight of such issues as sensitive materials being displayed. As a result of the recent court rulings regarding this controversy, it seems appropriate to more clearly define the roles of the regents, and the museum curator.

There are several avenues for policymaking that impact the daily functions and actions of the state museums under the authority of the Office of Cultural Affairs. Therefore, this memorial recognizes the need to review all statutes related to the Office of Cultural Affairs to determine if these statutes still reflect the will of the legislature, particularly beginning the 21st century.

The Office of Cultural Affairs provided the following historical perspective of a prior review of this agency:

“In 1987 the Legislature passed a memorial creating a commission under the leadership of Representative J. Paul Taylor, the "Taylor Commission," which performed a comprehensive review of the statutory creation of the Office of Cultural Affairs and its separate divisions. Subsequently, the Taylor Commission devised several recommendations for the restructure of the Office of Cultural Affairs, including elevation of OCA to Governor's Cabinet rank and the restructure of all boards and commissions (including the Museum of New Mexico Board of Regents) attached to OCA's divisions. None of these recommendations was adopted at that time.

It is appropriate to review the existing statutes regarding OCA and its divisions at this time with the purpose of standardizing the authorities granted to the various parties in the divisions in statute, clarifying the responsibility of the governing boards and commissions to establish policy, and the responsibility of the employees of the agency to implement those policies for daily operations. Under the accreditation standards of the American Association of Museums, there must be a clear delineation between policy making and implementation responsibilities. There is also a significant body of court opinion, including the U.S. Supreme Court, regarding the role of museums in society that should be included in the review.”

ADMINISTRATIVE IMPLICATIONS

The study requested by this memorial would require scheduling and time on the part of legislators, Legislative Council staff and OCA staff in order to assemble and review all pertinent documents.

OTHER SUBSTANTIVE ISSUES

According to the Attorney General, the appropriate mechanism for mandating that meetings conducted by public agencies or divisions be open to the public is the Open Meetings Act, not the statutes governing the Office of Cultural Affairs and its museum divisions.

The following information is related to the current operations of the Office of Cultural Affairs:

The Office of Cultural Affairs was created in 1980 through the enactment of the Office of Cultural Affairs Act, Sections 9-6-7 through 9-6-11 NMSA 1978. OCA is directed by the state cultural officer, who is appointed by the secretary of finance and administration with the governor's approval.

The Office of Cultural Affairs consists of the following divisions: National Hispanic Cultural Center, Museum of New Mexico, Museum of Natural History and Science, State Library, Arts, Historic Preservation, Museum of Space History, Farm and Ranch Heritage Museum, and Administrative Services. The Museum of New Mexico includes the Palace of the Governors, Museum of Fine Arts, Museum of International Folk Art, Museum of Indian Arts and Culture, Office of Archaeological Studies, Museum of New Mexico Press and New Mexico State Monuments. The five state monuments are located in Lincoln, Jemez, Coronado, Fort Selden and Fort Sumner.

OCA is operating under performance-based budgeting and has structured common activities of nine functional divisions into five overarching programs: (1) preservation, (2) exhibitions, performing arts and presenting programs, (3) education, outreach and technical assistance, (4) cultural resources development, and (5) program support.

The agency derives its revenue from various sources including the general fund, federal funds, admission fees, rental fees for facilities, enterprises (sales of publications) and other private gifts and grants. The museum foundations also provide funds for special exhibits, advertising and out-of-state travel among other areas.

JMG/ar