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FISCAL IMPACT REPORT

SPONSOR Lundstrom DATE TYPED 1/27/05 HB HJM02

SHORT TITLE Enforce Indian Arts Act of 1990 SB _____

ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

The federal Indian Arts and Crafts Act of 1990 is a truth-in-advertising law that prohibits misrepresentation in marketing Indian arts and crafts products within the United States.

The law regulates the following:

- Makes it is illegal to offer or display for sale or sell any art or craft product in a manner that falsely suggests that it is Indian-produced, an Indian product or the product of a particular Indian, an Indian tribe or an Indian arts and crafts organization;
- For a first-time violation of the act, an individual may face a civil penalty or a criminal penalty with a fine of up to two hundred fifty thousand dollars (\$250,000) or a five-year prison term, or both. Alternately for a first-time violation of the act, a business may face a civil penalty or be prosecuted and fined up to one million dollars (\$1,000,000), or both; and
- Under the act, "Indian" is defined as a member of any federally or state-recognized Indian tribe or an individual certified as an Indian artisan by an Indian tribe.
- The act covers all Indian and Indian-style traditional and contemporary arts and crafts produced after 1935.
- The act requires that all products be marked truthfully regarding the Indian heritage and the tribal affiliation of the producers, so as not to mislead a consumer.
- Under the act it is illegal to market an art or craft item using the name of a tribe if a member or certified Indian artisan of that tribe did not actually create the art or craft item; and

The United States attorney for the district of New Mexico has the necessary legal authority to prosecute a violation of the act as with any consumer fraud complaint. The federal Indian arts and crafts board receives and refers valid complaints about violations of the act to the federal bureau of investigation for in-

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quiry and to the federal department of justice for legal action;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the United States attorney for the district of New Mexico and the federal department of justice be requested to enforce the provisions of the federal Indian Arts and Crafts Act of 1990.

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the United States attorney for the district of New Mexico, the United States attorney general, the New Mexico attorney general, the New Mexico congressional delegation and New Mexico Indian tribal leaders.

MW/sb