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FISCAL IMPACT REPORT

SPONSOR Lundstrum ORIGINAL DATE 1/23/06
LAST UPDATED _____ HB 48
SHORT TITLE Native American Arts Certification Mark SB _____
ANALYST McSherry

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$125.0	Non-Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Cultural Affairs (DCA)
Indian Affairs Department (IAD)
Regulation and Licensing (RL)
Economic Development Department (ECD)

SUMMARY

Synopsis of Bill

House Bill 48, "Native American Arts Certification Mark" appropriates \$125,000 from the general fund to the Regulation and Licensing Department for the purpose of research about, and proposal of, legislation to create a New Mexico certification mark which would identify Native American arts and crafts produced in New Mexico under certain standards and criteria.

FISCAL IMPLICATIONS

The appropriation of \$125,000 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

SIGNIFICANT ISSUES

The Indian Affairs Department cites three purposes for the proposal:

1. Development of Indian arts and crafts to improve the economic status of members of Indian tribes and pueblos
2. Development and expansion of marketing opportunities for arts and crafts produced by members of Indian tribes and pueblos
3. Protection of Indian artists and craftspeople, Indian tribes, Indian-owned businesses and consumers from the marketing of products as “Indian made” when the products are not made by Indians.

PERFORMANCE IMPLICATIONS

The performance of this proposal could be measured through tracking of arts and crafts sales in New Mexico, or tracking of those vendors which are prosecuted for false marketing. The number of vendors selling arts and crafts could also be monitored

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Indian Affairs Department cites a federal relationship with this proposal, PL 101-644, Indian Arts and Crafts Act of 1990.

IAD also asserts that the bill may conflict with the Indian Arts and Crafts Act, NMSA 30-33-1, et seq., which grants the NM Attorney General and Office of Indian Affairs (IAD) the authority to promulgate any regulations necessary to carry out the intent of the Act.

OTHER SUBSTANTIVE ISSUES

IAD reports that:

The U.S. Department of Commerce last surveyed the Native American arts and crafts industry in 1985 and estimated sales of \$800 million. The skyrocketing market since then has experts guessing that sales now far exceed well over \$1 billion. (The Scandal of Fake Indian Crafts, Cowboys and Indians, Scott Smith, Sept. 1998).

Unemployment at the leading Southwestern arts tribes—Zuni, Navajo and Hopi – whose styles account for 90 percent of the market - is over 70 percent. Two decades ago, it was 40 percent. (The Scandal of Fake Indian Crafts, Cowboys and Indians, Scott Smith, Sept. 1998).

According to the Department of Cultural Affairs, the legislation may not be necessary because Native American art in New Mexico is already closely regulated and monitored by the “SWAIA” and at the federal level by the Indian Arts and Crafts Board.

DCA also expresses concern that the implementation of a certificate and licensing fee structure could eventually lead to an “underground” market of substandard Indian art. The certification process could actually be a financial burden to Indian artists.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Creation of a certification emblem for Native American arts would not occur through the Regulation and Licensing Department.

POSSIBLE QUESTIONS

1. Should the Indian Affairs Department research and propose the suggested legislation, rather than the Regulation and Licensing Department?
2. Who would enforce the proposed legislation?

EM/nt