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FISCAL IMPACT REPORT

ORIGINAL DATE 1-18-2007

SPONSOR Madalena LAST UPDATED 3-6-2007 HB 73/aHCPAC/aHAFC

SHORT TITLE State Lands for Human Remains Reburials SB _____

ANALYST Dearing

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$100.0	\$100.0	\$100.0	\$300.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*Additional annual impact, please see narrative and tables

SOURCES OF INFORMATION

LFC Files

Responses Received From

Cultural Affairs Department (CAD)
 Indian Affairs Department (IAD)
 Department of Finance & Administration (DFA)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amends House Bill 73/aHCPAC such that;

- 1.) On page 1, line 13, strike “; MAKING AN APPROPRIATION”.
- 2.) On page 4, strike Section 5 in its entirety.

The House Appropriations and Finance Committee amendments make minor changes to the proposed legislation, removing the appropriation of \$100 thousand and a reference in the short title to that appropriation.

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amends House Bill 73 such that;

- 1.) On page, 2, line 1, after “persons” insert “demonstrably,” and after “related” insert “remains”.

- 2.) On page 2, line 2, strike “or by” and insert in lieu thereof a comma.
- 3.) On page 2, line 2, after “affiliation” strike “or by” and insert in lieu thereof a comma.
- 4.) On page 2, line 2, after “clan” insert “or direct historical association” .
- 5.) On page 2, line 12, after “accident” insert “or other means” .
- 6.) On page 3, line 15, strike “and private”.

House Consumer and Public Affairs Committee amendments make minor changes to the proposed legislation, thereby clarifying its intention. The intent of the changes is such that the relationship to remains is more clearly defined. The method of discovering remains is expanded to include most scenarios. Lastly, the amendment limits establishment of re-internment procedures and priorities to publicly (state) held items; subsequently limiting the scope of the legislation.

Synopsis of Original Bill

House Bill 73 appropriates \$100 thousand from the general fund to department of Cultural Affairs Historic Preservation division for the purpose of designating and securing an unmarked burial ground on state or federal land for the reburial of unclaimed Native American human remains and funerary objects in fiscal years 2008 and 2009. The proposed legislation enacts a new section of Chapter 18, Article 6 NMSA 1968 such that the “Reburial Grounds Act” is created.

FISCAL IMPLICATIONS

The appropriation of \$100 thousand contained in this bill is a nonrecurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY08 shall revert to the General Fund.

*Additional annual expenses estimated to occur with the enactment of this legislation include ongoing burial expenses of \$10.5 thousand (estimated cost of three-hundred dollars per re-internment * average annual number of human remains found needing re-internment (approximately 35 each year)). Other associated recurring expenses include security, which is a component of the proposed legislation. The security expense can potentially be mitigated through careful consideration of the location of the chosen site. Both the costs to secure and re-bury remains would not occur prior to acceptance and re-internment, and so are not included in this FY08 impact assumption. However, House Bill 73 mandates that the first re-internment will begin by July 1st, 2009, so these costs must be considered along with this legislation.

SIGNIFICANT ISSUES

The Executive’s FY08 budget recommendation includes \$50 thousand as an expansion initiative in the Indian Affairs department's budget for a Tribal Reburial Grounds for the reburial of unmarked Native American human remains and funerary objects. In addition, the Executive recommendation includes a \$50 thousand special nonrecurring appropriation for the Indian

Affairs Department to designate a reburial ground for unmarked human remains.

PERFORMANCE IMPLICATIONS

If enacted, the LFC recommends that the Cultural Affairs department submits a plan for program evaluation with specific program goals and criteria for assessing the effectiveness and provides suggested outputs, outcomes and performance measures to evaluate the performance of state government programs as prescribed in the Accountability in Government Act.

ADMINISTRATIVE IMPLICATIONS

HB 73 mandates the Department of Cultural Affairs to organize a collaborative working group to recommend and promulgate rules and procedures for New Mexico Administrative Code. A significant effort in collaborating with other state and federal entities is necessary in conjunction with enactment of this legislation.

TECHNICAL ISSUES

The proposed legislation enacts a new section of Chapter 18, Article 6 NMSA 1968 such that the “Reburial Grounds Act” is created.

A second section of Chapter 18, Article 6 NMSA 1968 defining relevant terms is provided.

A third section of Chapter 18, Article 6 NMSA 1968 provides that, with the exception of remains claimed by descendent groups, all historic and pre-historic remains discovered in New Mexico will be interned at the site.

A fourth section of Chapter 18, Article 6 NMSA 1968 directing the Cultural Affairs department to facilitate the selection of a parcel of state or federal land for the purposes of creating the reburial grounds.

Under this proposed section, the department is responsible for creating a working group by September 1st, 2007. The composition of the group must include representatives from the Cultural Affairs department, the Indian Affairs department, and the tribal-state workgroup on repatriation and burial places. The working group would then be tasked with developing rules and procedures for reburial. By December 30th, 2008 the working group would need to promulgate rules with the state historic preservation officer, and ultimately accept the first remains for re-internment by July 1st, 2009.

Lastly, the legislation mandates that map plattes are kept up to date and confidential pursuant to Section 18-6-11.1 NMSA 1978.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If House Bill 73 is not enacted, the remains of historic and pre-historic people will continue to be stored with the Office of Archaeological Studies if they are not claimed by descendent groups.