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FISCAL IMPACT REPORT

ORIGINAL DATE 3/8/17

SPONSOR Louis LAST UPDATED _____ HB 492

SHORT TITLE Study Cultural Property Protections SB _____

ANALYST Martinez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
(\$300.0)		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Cultural Affairs Department
Attorney General's Office

SUMMARY

Synopsis of Bill

HB 492 proposes to appropriate one hundred thousand dollars (\$100,000) from the general fund to the Department of Cultural Affairs for expenditure in fiscal years 2017 and 2018 for a study to be completed in collaboration with the Office of the Attorney General to identify ways to prevent the theft, wrongful sale and alienation of cultural property and cultural patrimony from the state in violation of state and federal laws; to determine how to strengthen related state laws; and to develop related proposed legislation for presentation to the legislative interim committee that studies Indian affairs by November 1, 2017.

HB 492 also proposes to appropriate two hundred thousand dollars (\$200,000) from the general fund to the Office of the Attorney General in fiscal years 2017 and 2018 to provide personnel to work on a collaborative study with the Department of Cultural Affairs; to determine how to strengthen state laws; to develop proposed legislation; and to assist in the prosecution of the theft, wrongful sale and alienation of cultural property or patrimony.

Any unexpended funds revert to the General Fund at the end of FY 18.

FISCAL IMPLICATIONS

HB 492 may require additional Department of Cultural Affairs (DCA) staff to assist with the study group as well as to draft new legislation. The \$100,000 appropriation will allow DCA to either hire staff or contract with outside experts to complete the required study.

\$200,000 to the Office of the Attorney General (OAG) will allow the OAG to either hire staff or contract with outside experts to complete the required study.

SIGNIFICANT ISSUES

The Department of Cultural Affairs states that although there is not a state statute that directly deals with theft, wrongful sale, and alienation of cultural patrimony, the New Mexico Cultural Properties Act, NMSA 1978, Sections 18-6-1 to -17 provides for the protection of archaeological sites through the creation of a permitting process for the survey and excavation of archaeological sites and unmarked human burials by qualified institutions and establishes civil and criminal penalties (see 18-6-9 thru 18-6-11 of the Cultural Properties Act) for unauthorized excavations, looting of archaeological sites, and disturbance of unmarked burials. In proposing future legislation, the study group could focus on crafting new legislation that imposes strict criminal penalties for the theft, wrongful sale and alienation of cultural patrimony.

PERFORMANCE IMPLICATIONS

The Office of the Attorney General will need to dedicate personnel or contract with outside entities to complete the required study.

OTHER SUBSTANTIVE ISSUES

There are a few instances of similar objects of cultural patrimony that are owned by non-Native American groups, such as those found in Moradas. Although Native American objects of cultural patrimony would be the vast majority of objects to be covered by any new statute, it may be useful to make sure that the bill can extend to any group where objects that are owned by a group need to be recovered after being improperly removed from the group.

JM/jle