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## FISCAL IMPACT REPORT

SPONSOR Rainaldi DATE TYPED 3/14/05 HB \_\_\_\_\_

SHORT TITLE Enforce Indian Arts & Crafts Act of 1990 SB SJM 14

ANALYST Weber

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (DIA)

### SUMMARY

#### Synopsis of Bill

Senate Joint Memorial 14 urges the U. S. Attorney for the district of New Mexico to enforce the Indian Arts and Craft Act of 1990. It also directs that a copy of memorial be given the U.S. attorney for the district of NM, the NM attorney general, the NM congressional delegation and NM Indian tribal leaders

#### Significant Issues

The following is from the U.S. Department of Interior web site regarding the Indian Arts and Crafts Act of 1990.

The Indian Arts and Crafts Act of 1990 (P.L. 101-644) is a truth-in-advertising law that prohibits misrepresentation in marketing of Indian arts and crafts products within the United States. It is illegal to offer or display for sale, or sell any art or craft product in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian Tribe or Indian arts and crafts organization, resident within the United States. For a first time violation of the Act, an individual can face civil or criminal penalties up to a \$250,000 fine or a 5-year prison term, or both. If a business violates the Act, it can face civil penalties or can be prosecuted and

fined up to \$1,000,000.

Under the Act, an 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 law covers all Indian and Indian-style traditional and contemporary arts and crafts produced after 1935. The Act broadly applies to the marketing of arts and crafts by any person in the United States. Some traditional items frequently copied by non-Indians include Indian-style jewelry, pottery, baskets, carved stone fetishes, woven rugs, kachina dolls, and clothing.

All products must be marketed truthfully regarding the Indian heritage and tribal affiliation of the producers, so as not to mislead the consumer. 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.

For example, products sold using a sign claiming "Indian Jewelry" would be a violation of the Indian Arts and Crafts Act if the jewelry was produced by someone other than a member, or certified Indian artisan, of an Indian tribe. Products advertised as "Hopi Jewelry" would be in violation of the Act if they were produced by someone who is not a member, or certified Indian artisan, of the Hopi tribe.

The Indian Affairs Department contributed the following.

The purpose of the proposed measure is to encourage enforcement and implementation of the Indian Arts and Crafts Act of 1990, PL 101-644 (the "Act"). Congress adopted the Act in response to growing sales of arts and crafts products misrepresented as being made by Indian. The Act is a truth-in-advertising law that prohibits the marketing of products as Indian made when such products are not made by Indians. The Act is intended to protect Indian artists and craftspeople, Indian tribes, Indian-owned businesses, and consumers.

The Act establishes several important mechanisms for carrying out these goals. For example, the Act authorizes the Indian Arts and Crafts Board (IACB) to receive and refer complaints alleging civil and/or criminal misrepresentation of products as Indian made. Under the Act, the IACB may refer complaints of criminal violations to the FBI for investigation and may recommend cases to the Attorney General of the United States for criminal prosecution. The IACB may recommend that the Secretary of the Interior refer complaints for civil action to the Attorney General. For example, the Secretary may make referrals to the Attorney General for civil action in response to complaints initiated by an Indian, Indian tribe, or Indian arts and crafts organization.

**MW/rs**