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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13  
 SPONSOR Varela LAST UPDATED 02/26/13 HB 417/aHAFC  
 SHORT TITLE Cultural Affairs Dept. Enterprise Fund SB \_\_\_\_\_  
 ANALYST Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY13 | FY14 | FY15 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| <b>Total</b> | NFI  | NFI  | NFI  |                      |                              |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Cultural Affairs (DCA)

### SUMMARY

#### Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 417 makes the following changes: it clarifies that the Cultural Affairs Department Enterprise Fund is limited by existing and any future statutes by adding “Except as otherwise provided by law,” to the language of the bill. This assures that funding generated by any sales of collections items, for example, which by law are deposited in the already existing “Museum Collections Fund,” will not be deposited into this fund.

Further, the Amendment also stipulates that, if any part of the fund consists of appropriations, then such appropriations were appropriations specifically “made to the fund.”

#### Synopsis of Original Bill

House Bill 417 (HB 417) creates the “Cultural Affairs Department Enterprise Fund” (“The Fund”) as a non-reverting account that will hold the Department of Cultural Affairs (DCA) revenues, donations, bequests, and any non-general fund appropriations made to the fund. The Fund is modeled largely after the Tourism Enterprise Fund.

Before fiscal year 2012, The DCA operated as a non-reverting agency through authority given by language in the General Appropriations Act. HB 417 puts into statute what has been occurring in practice.

This bill establishes a permanent, non-reverting statutory fund for earned revenues which are available for use by the Department on appropriation by the Legislature.

### **SIGNIFICANT ISSUES**

Allowing the Department to separately account for earned revenue will also enable it to think more strategically about its future, including maximization of public/private partnerships, facilities rentals, and admissions fees, so as to decrease its reliance on general fund appropriations.

On a more pragmatic level, some DCA departments already rely entirely, or almost entirely, on earned revenues to operate. These include the Office of Archeological Studies and the Museum of New Mexico Press.

An enterprise fund will provide statutory authority for these departments to continue to operate as they have for many years.

### **PERFORMANCE IMPLICATIONS**

The Fund may incentivize the revenue-generating divisions of the DCA to earn more revenues.

### **AMENDMENTS**

The DCA states that because a “Museum Collections Fund” already exists in law (NMSA 1978, Section 9.4-20) as a non-reverting fund for sales of museum *collections*, an amendment HB 417 is needed to clarify that revenue intended for this fund—“otherwise provided for by law”---will *not* be deposited into the proposed Cultural Affairs Department Enterprise Fund. While collections sales generate revenue as well, under the American Alliance of Museums best practices, such revenue should be separately accounted for and used to purchase collections only.

Therefore, a recommended amendment is: on page 1, line 20, after the period, insert “Except as otherwise provided by law” as the beginning of the second sentence so that the second sentence reads, “Except as otherwise provided by law, the fund consists of...”

In addition, to clarify that only appropriations *made to this fund* will be deposited in the fund, the general reference to “appropriations” should be made more specific. The bill should specify that the appropriations in the fund are only those appropriations “made to the fund,” to clarify that the DCA’s operational/budgetary appropriations are not intended to go into this fund. Therefore, recommend inserting on page 1, line 20, after the word “appropriations”, insert “to the fund.”

CAC/blm:svb