F I S C A L I M P A C T R E P O R T

		ORIGINAL DATE	09/16/11		
SPONSOR	Bandy	**LAST UPDATED**		**HB**	17
SHORT TITLE	Combine Cultural Affairs & Tourism Depts.			**SB**	
				ANALYST	Haug/Lucero/ Soderquist

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		*($431.5)	*($863.0)	*($1,294.5)	Recurring	General Fund and OSF

(Parenthesis ( ) Indicate Expenditure Decreases)
*Amounts are maximum estimates. Actual impact could be less. See Fiscal Implications

SOURCES OF INFORMATION
LFC Files

Responses Received From
General Services Department (GSD)
Department of Finance and Administration (DFA)
Consolidated with:
Tourism Department (TD)
Cultural Affairs Department (DCA)

SUMMARY

Synopsis of Bill

House Bill 17, with the Emergency Clause, merges the Tourism Department (TD) with the Cultural Affairs Department (DCA), to create the Tourism and Cultural Affairs Department (TCAD). The bill adds to the existing DCA structure the two Tourism Department operational divisions, the Tourism Development Division and the New Mexico Magazine Division. It also creates the African American Cultural Division, presently the African American Performing Arts Center associated with the State Fair Commission. There would be a total of 19 Divisions in the new Department.

The bill adds Fort Stanton as a state monument and eliminates the Fort Stanton development board and transfers any money in the Fort Stanton development fund to the general fund. The fund currently has a zero balance.

The repeal of the Tourism Act would eliminate four current statutory TD divisions: the Marketing division, the Promotion division, the Sports Authority Division and its sports advisory committee and the Administrative Support Division.

The NM Artisans Business Development program is repealed. The DCA has previously noted that the NM Artisans Business Development program created in 9-15-35 NMSA 1978 has never been funded and has never been implemented.

The divisions in the new Tourism and Cultural Affairs Department are as follows:

A. the administrative services division;
B. the arts division;
C. the historic preservation division;
D. the library division;
E. the Hispanic cultural division;
F. the African American cultural division;
G. the farm and ranch heritage museum division;
H. the natural history and science museum division;
I. the museum of space history division;
J. the museum resources division;
K. the veterans museum division; [and]
L. the following divisions that make up the museum of New Mexico:
    1) the palace of the governors state history museum division;
    2) the New Mexico museum of art division;
    3) the museum of Indian arts and culture division;
    4) the museum of international folk art division;
    5) the archaeological services division; and
    6) the state monuments division;
M. the tourism development division; and
N. the New Mexico magazine division.

FISCAL IMPLICATIONS

Mergers of departments are frequently justified by the logic of synergies created in the operations of the consolidated department. Additionally, cost savings resulting from combining the overhead operations of two related agencies are usually projected. Synergistic effects may turn out to be very real and may have substantive effects on the effectiveness of the new department. While such synergistic effects may be anticipated and may yield highly desirable results, determining a financial impact in advance is largely speculative, and such effects seldom result in lower operating costs. Hence, they are not considered in this fiscal impact analysis.

Combining overhead operations can lead to real reductions in operating costs. These cost savings typically result from:

1) elimination of top management positions duplicated in the merged agencies.
2) consolidation of Administrative Services Divisions.

This analysis attempts to standardize a method for evaluating the potential reduction in costs resulting from the elimination of duplicate top management positions in the merged agencies.

Cost savings produced by the consolidation of Administrative Services Divisions (ASD) are more problematic to estimate, particularly in the cost estimation time lines for operating budget impacts in the table above. Experience from previous agency mergers would not necessarily provide a great deal of reassurance as to the speed or inevitability of significant cost savings from this aspect of a merger. Nevertheless, this analysis attempts to provide a means of at least estimating the longer term possible cost effect of combining Administrative Services Divisions.

Details of the method used to arrive at a potential cost savings from elimination of duplicated top management positions and consolidation of Administrative Services Divisions are contained in the attachment to this FIR. In brief, the method for top management positions uses the midpoint salaries of exempt positions plus assumed benefits at 35%, and an assumption of five exempt staff remaining after the merger to estimate the potential impact. Exempt positions for existing museum divisions and for New Mexico Magazine are excluded since it is unlikely that they will be affected by the merger of the departments. This method overestimates the potential savings at present since all current exempt positions are either vacant or paid at lower than midpoint salaries. In addition, the estimate does not reflect the possibility that some positions presently categorized as exempt will be reincarnated as classified positions to meet mid level management requirements. As a result, the potential cost savings from this element is estimated generously.

A complete consolidation of Administrative Services Divisions is not included in the table estimates. See the attachment for estimates of longer term potential savings from this aspect of consolidation. Any exempt positions in an ASD are considered in the top management analysis.

The amount of savings from eliminated exempt positions arrived at using this method is reduced by an estimate for the additional cost of the new African American Cultural Division (AACD), which the TCAD would need to absorb at least until the next appropriation cycle. The amount used for this purpose is $349.3, the amount vetoed in the State Fair Commission appropriation from the 2011 regular session. Since it is unclear whether a revised appropriation request from the merged department would be forthcoming, the amount is used for both fiscal years in the operating budget impact table.

The net potential cost saving reflected in the table above is:

Reductions in top management position:	($1,212.6)
Additional cost for AACD:	$ 349.3
Total net operating budget impact:	($ 863.0)

For FY12 this estimated impact is reduced by 50% to 431.5 since FY12 is nearly one third over and it would be unlikely that major organizational changes would occur before the beginning of 2012.

The unexpended balance ($9,899 as of 9/7/11) of a 2008 general fund appropriation to the State Fair Commission for grounds landscaping design, planning and completion at the building occupied by the African American Performing Arts Center is moved to the TCAD and the termination date of the appropriation is extended to FY14 from FY12. Beyond the extension, there is no fiscal impact. See Significant Issues below for other considerations.

Eliminating the Fort Stanton Development Commission and transferring any balance in the fund to the general fund creates no fiscal impact. There are no funds currently in the Fort Stanton Development Fund.

The DFA, in a consolidated response with DCA and TD, asserts:

> A preliminary analysis of the administrative, fiscal, and human resource functions suggests that the consolidated Tourism and Cultural Affairs Department could realize additional cost savings of as much as $1,000.0. Furthermore, detailed analysis is yet to be conducted to explore potential synergies and cost savings through consolidation of related functions such as those of the New Mexico Magazine and the Museum Press.
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> Another consideration that is yet to be explored is the consolidation of core function divisions within the department. Once the current departments are consolidated, it will be feasible to conduct an analysis that explores the possibility of combining core function administrations at the division level where appropriate, i.e. one division administration for a specific area or region such as Santa Fe or Albuquerque. Currently, all divisions have separate directors and administrative functions.
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> This merger would also align agencies with shared missions and constituencies. Advertising would be accomplished with a more consistent brand and less duplication of efforts.

SIGNIFICANT ISSUES

The legislation creates the new Tourism and Cultural Affairs Department (TCAD) using the current DCA statutes as an administrative foundation. The TCAD cabinet secretary retains the current powers and duties of the DCA cabinet secretary, and adds additional duties relating to the TD. The current Tourism Department statutes are mostly moved as they currently stand to the current DCA sections of the NMSA. The majority of the bill simply amends all current statutes in which either the Cultural Affairs Department is mentioned or the Tourism Department is mentioned, to change the name of the department when it appears to the "Tourism and Cultural Affairs Department".

Although the legislation provides the framework for the merger of TD and DCA, it cannot address two critical issues: 1) whether there is a compelling and natural fit between the two organizations and; 2) whether the intangible costs involved in integration may potentially override any tangible fiscal benefits. On the first point, the defined mission of DCA is "to preserve, foster, and interpret New Mexico's diverse cultural heritage and expression for present generations, enhancing the quality of life and economic well-being in the state." Although it is accurate to state that the TD mission involves the marketing of the state's cultural heritage, it remains unclear whether TD has the expertise to manage complex tasks related to the protection of museum collections, archaeology, library services, arts, and other activities pursued by DCA at this time. There is no obvious fit between the two organization other than a potential synergy focused on marketing the vast cultural and artistic heritage of the state. A legitimate question would be whether TD could provide its expertise in this area without a merger. On the second point, given the organizational asymmetries between the two agencies, a legitimate question would be whether the intangible costs involved in organizational integration – information technology systems, building use, etc. – would override any estimated financial benefits.

Previous efforts at re-organization in the state suggest the effort does not always lead to organizational or economic efficiencies.

In Section 11 regarding additional duties assigned to the secretary, changes from the existing responsibilities of the DCA secretary are:

> In existing statute:
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> F. encourage the preservation of traditional rites and ceremonials of Indian tribes and pueblos to increase knowledge and appreciation of those rites and ceremonials; and
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> In House Bill 17:
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> F. Promote and market Native American tourism-related activities.
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> In addition, the current paragraph "G. promote the intertribal Indian ceremonial" is removed in House Bill 17.

DCA previously proposed this change with the reasoning that the revised language rather than specifically mentioning the "intertribal Indian ceremonial and traditional rites and ceremonials that the Indian community may well not want marketed broadly" is a better expression of the Secretary's responsibility. It is significant that the original language does not deal with <u>promotion</u> of traditional rites and ceremonials but rather the encouragement of their <u>preservation</u>. It is also unclear if these changes reflect consultation with affected Native Americans or are assumptions made regarding the desirable functions of the new department.

Section 51 adds the African American Cultural Affairs Division, a new functional unit to the merged department with a full divisional overhead structure and a 15 member board. Criteria for members are specified in the bill with all appointments by the governor subject to Senate confirmation. Among its duties, the board may accept and hold title to all real or personal property for the African American Performing Arts Center (AAPAC). Currently the facility on the state fair grounds occupied by the AAPAC is owned by the State Fair Commission. Section 68 of the bill states that "All personnel, appropriations, money, records, equipment, supplies and other property of the state fair commission and the New Mexico state fair specific to the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county are transferred to the tourism and cultural affairs department." It is not clear if the "other property" includes only personal property or includes real property as well. If "other property" includes real property, it would be important to determine if the transfer of the building would interfere with the State Fair Commission's master planning efforts. In addition, House Bill 17 transfers the balance of a general fund capital appropriation for landscaping at the facility from the State Fair Commission to TCAD. Given the ownership status uncertainty and without clarification from the involved agencies, it is unclear whether moving or not moving this balance (less than $10 thousand of a $50 thousand appropriation) will result in a more timely completion of the project. The bill extends the appropriation authorization through fiscal year 2014 from its scheduled expiration at the end of FY 2012.

Section 20 creates the Tourism Commission, administratively attached to TCAD, and charged with providing "advice to the department on tourism-related policy matters." Section 20 paragraph C.(1) provides that the commission shall "develop and recommend policies and provide policy and program guidance for the department”. It is unclear if these policies and guidance apply only to tourism aspects of the TCAD or whether the intention is to have them apply as well to the cultural affairs components of the department.

This FIR assumes that the functions of the TD operational divisions specified in the TD enabling legislation (the marketing division, the promotion division, the sports authority division and its sports advisory committee), and eliminated in the merger, will be assumed by the Tourism Development Division in the new department since all appropriations and assets are moved to the new department. The agencies have not explicitly confirmed this assumption.

Not addressed in House Bill 17, but worth consideration would be the possible transfer of museum building management functions from DCA to GSD as part of the Building Services Division as a means of relieving the consolidated department of a routine duty which may be more efficiently administered by GSD.

PERFORMANCE IMPLICATIONS

While potentially improving the financial performance of the resulting department, evidence has not been provided by DFA or other agencies that the merger of the agencies and commissions will either improve or degrade performance.

ADMINISTRATIVE IMPLICATIONS

Combining departments, particularly departments with complicated internal organization, takes a great deal of management time and attention. There will also be some costs associated with the merger, such as signage and stationery and relocation of offices to reflect a new internal organization. It is possible that after a transition period of unknown duration, the merger of DCA and TD could result in operational synergy and improved efficiency. That operational synergy is not however guaranteed, and has not always been successfully achieved in other departmental mergers.

OTHER SUBSTANTIVE ISSUES

The Tourism Department has cautioned in the past against reducing the marketing and promotion budget for tourism when the Departments merge, noting that any reduction or elimination of key promotional programs currently administered by TD would result in significant negative fiscal impacts on state revenues, as it would dilute TD’s effectiveness in performing its mission of promoting New Mexico as a visitor destination.

TD has also noted previously that tourism is currently New Mexico’s largest private-sector employer and second-largest private-sector industry, generating revenues of $6 billion annually in 2008, providing $400 million in state tax revenues and employing more than 110,000 New Mexicans.

GH:DL:RS/svb

Attachment to HB 17

Methodology for Operating Budget Impact resulting from:

Elimination of Duplicated Top Management Positions

This analysis assumes that all current museum division exempt employees in the Cultural Affairs Department will remain as exempt employees. They are not included in the analysis.

Without reference to the current incumbent or the incumbent's salary or whether the position is filled or vacant, the Cultural Affairs positions with the midpoint salary are:

Cabinet Secretary	$131,040
Deputy Cabinet Secretary	$107,723
General Counsel	$ 97,698
Division Director 1	$ 84,906
Executive Assistant 1	$ 64,480
Admin Assistant 2	$ 53,685
Total possible midpoint salary	$539,532

This analysis assumes that the exempt employees at New Mexico Magazine will remain as exempt employees. They are not included in this analysis.

Once these exempt positions are excluded, the Tourism Department has four (4) exempt positions listed on the September 1, 2011 Organizational Listing Report:

Cabinet Secretary	$131,040
Deputy Cabinet Secretary	$107,723
Division Director 2	$ 93,059
Division Director 1	$ 84,906
Total possible midpoint salary	$421,728

The total top management costs for the two separate agencies at mid point salaries would be $1,382,988.

Top management jobs under a merged agency are assumed to be:

Cabinet Secretary	$131,040
Deputy Cabinet Secretary	$107,723
Executive Assistant 1	$ 64,480
General Counsel	$ 97,698
Division Director 1 (ASD)	$ 84,906
Total possible midpoint salary	$485,847

The difference ($897,141) between the separate agencies total ($1,382,988) and the assumed positions in the merged department ($485,847) is the salary cost savings assuming midpoint salaries for all positions. Including benefits savings at 35% of salaries would yield an addition $315.5 reduction for a total of $1,212.6. Should positions be filled at lower than mid point salaries, cost reduction will be less. Should positions be filled at higher than mid point salaries, cost reduction will be more.

Consolidation of Administrative Services Divisions

The operating budget impacts table reflects no additional cost reduction within the fiscal year horizon in the table from the consolidation of Administrative Services Division given the need for agencies to merge these functions in some rationally workable manner over a one to two year period. Assuming Administrative Services Division duplication of effort will be handled through attrition and reassignment within the new department, one method of estimating the longer term effect of consolidating the ASD's is to use an average ASD salary, excluding any exempt positions considered in the top management consolidation. ($72,000 with benefits across both existing departments). This average is to some extent driven by the relatively higher salaries of IT personnel of whom DCA has a large contingent. It is unlikely that the size of the IT support unit will diminish in any substantial way, potentially leading to a lesser average savings if consolidation of financial operations is achieved. Additionally, this estimate does not consider positions used for administrative purposes in operational divisions of either department.