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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/12

SPONSOR Bandy LAST UPDATED \_\_\_\_\_ HB 157

SHORT TITLE Combine Tourism & Cultural Affairs Depts. SB \_\_\_\_\_

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See narrative				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 4  
Conflicts with House Bill 68

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Department of Cultural Affairs (DCA)

No Response Received From  
Tourism Department (TD)  
Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

House Bill 157 (HB157) would merge the Tourism Department with the Cultural Affairs Department, to create the Tourism and Cultural Affairs Department (TCAD) with an effective date of July 1, 2012. The bill adds to the existing DCA structure the two Tourism Department operational divisions, the Tourism Development Division and the New Mexico Magazine

## House Bill 157 – Page 2

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 20 Divisions in the new Department.

The bill would add Fort Stanton as a state monument and eliminates the Fort Stanton development commission and transfers any money in the Fort Stanton development fund to the general fund.

House Bill 157 would repeal the Tourism Act and 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The NM Artisans Business Development program is repealed.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The New Mexico Film Museum Act is also repealed.

The divisions in the reorganized Tourism and Cultural Affairs Department would be as follows:

1. the Administrative Services Division;
2. the Arts Division;
3. the Historic Preservation Division;
4. the Library Division;
5. the Hispanic Cultural Division;
6. the African American Cultural Division;
7. the Farm and Ranch Heritage Museum Division;
8. the Natural History and Science Museum Division;
9. the Museum of Space History Division;
10. the Museum Resources Division;
11. the Veterans Museum Division; [and]
12. the following divisions that make up the Museum of New Mexico:
  - a) the Palace of the Governors State History Museum Division;
  - b) the New Mexico Museum of Art Division;
  - c) the Museum of Indian Arts and Culture Division;
  - d) the Museum of International Folk Art Division;
  - e) the Archaeological Services Division; and
  - f) the State Monuments Division;
13. the Marketing and Promotion Division
14. the New Mexico Magazine Division
15. the Tourism Development Division

The bill would administratively attach the State Fair Commission, the State Racing Commission and the Intertribal Ceremonial Office to the new department.

A new “Tourism Commission” comprised of seven members appointed by the governor would be created to advise the Marketing and Promotion Division. No more than four members could be from the same political party.

Also created would be a new, non-reverting “Tourism Enterprise Fund” for the purpose of receiving appropriations, grants, gifts, donations, fees, and receipts from the sale of souvenirs and sundries at visitor centers, web-site-related sales, television special program rights and other monies. The fund would be appropriated to the new department for the purpose of carrying out the duties of the department related to tourism.

In addition to the creation of the African American Cultural Affairs Division, the bill would create a new “Board of Directors of the African American Performing Arts Center” consisting of fifteen New Mexico residents appointed by the governor with the advice and consent of the senate. The president of the board would be appointed by the governor. The initial appointees will serve staggered terms, with subsequent appointees all serving four-year terms. Board members would only be compensated for mileage and per diem.

### **FISCAL IMPLICATIONS**

House Bill 157 makes no appropriation.

While not providing any dollar-value estimates, the DCA states the merger of the Department of Cultural Affairs with the Tourism Department is projected to achieve savings as programming synergies and administrative efficiencies are realized, with duplicative services eliminated or streamlined. At the very least, top levels of the administration will be reduced to a single Cabinet Secretary, Deputy Cabinet Secretary, Executive Assistant, ASD Director and Legal Counsel; eliminating the need for those positions to exist in two Departments. Additional savings will be identified as operations combine and duplicative services are eliminated. The director of the African American Cultural Affairs Division is a newly-created exempt position.

HB157 would extend the time for expenditure of the severance tax bonds for the new African American Performing Arts Center to 2014. The time for landscaping the center’s grounds is similarly extended.

This bill creates a new fund (the “Tourism Enterprise Fund”) and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

### **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 organizations 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.

Section 57 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 157 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 21 of the bill 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.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill conflicts with HB 68, which creates the African American Cultural Division in DCA. Sections 55-62 of this Act duplicate HB 68.

The bill also relates to SB 4, which moves the administrative attachment of the State Fair to Cultural Affairs from Tourism.

### **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.

CH/svb