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## FISCAL IMPACT REPORT

SPONSOR Herndon LAST UPDATED 1/18/2024  
ORIGINAL DATE 1/17/2024  
BILL  
SHORT TITLE Study Office of African American Affairs NUMBER House Bill 38  
ANALYST Torres, Isaiah

### APPROPRIATION\* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
\$100.0		Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

NCSL

#### Agency Analysis Received From

Office of African American Affairs (OAAA)

New Mexico State Fair

#### Agency Analysis was Solicited but Not Received From

Martin Luther King (MLK) Jr. Commission

Health Care Authority Department (HCA)

## SUMMARY

### Synopsis of House Bill 38

House Bill 38 (HB38) appropriates \$100 thousand from the general fund to the Health Care Authority (HCA) for the purpose of creating a task force to study the feasibility of creating the African American Affairs Department, that would include the Office of African American Affairs (OAAA), the Martin Luther King Jr. (MLK) Commission, and the African American Performing Arts Center. HCA along with OAAA would be responsible for holding meetings and providing staff for the task force.

The governor would be responsible for appointing a chair for the study task force. The task force would be composed of 11 members, including five members solely appointed by the governor who are representatives of charitable or community organizations that work with the African American community in New Mexico.

The task force would be required to submit its findings and recommendations to the Legislature and to the Governor’s Office by December 1, 2024.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## **FISCAL IMPLICATIONS**

The appropriation of \$100 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund.

If the task force recommends the creation of an African American Affairs Department, this would transfer the operating budget for OAAA and the MLK Jr. Commission into this newly created agency. This would also transfer a \$375 thousand general fund appropriation for the New Mexico State Fair for the operation and maintenance of the African American Performing Arts Center. If an African American Affairs Department were established, this newly established agency would have an overall operating budget of \$1.8 million with 10 authorized FTE positions.

In FY22, the state moved funding for programs and exhibits at the African American Performing Arts Center from OAAA to the New Mexico State Fair. The New Mexico State Fair has a lease and use/management agreement with the African American Performing Arts Center Foundation to assist with operating and providing maintenance for the facility. In addition, Expo New Mexico receives 15 percent of all income from programming in the facility. Based on how the African American Performing Arts Center is operated by a 501c3 nonprofit organization, OAAA and MLK Jr. Commission would be the only agencies required to participate in the study.

## **SIGNIFICANT ISSUES**

HB38 is intended to study the feasibility of creating an African American Affairs department, and to evaluate if unification of OAAA, the MLK Jr. Commission, and the African American Performing Arts Center would be beneficial for the African American community in New Mexico. Currently, the African American Performing Arts Center operations are under the preview of a nonprofit organization, which may affect the task force’s ability to study the internal functions and operations of African American Performing Art Center. This would also exclude the executive director of the African American Performing Arts Center in participating in the task force. The African American Affairs department, if created, would have to consider maintaining the \$375 thousand lease and use/management agreement with the nonprofit organization.

The creation of the African American Affairs Department would be uniquely constructed agency compared to neighboring states. Colorado, Texas, Oklahoma, and California do not have state agencies that specifically focus on issues related to African American community. States such as Arizona, Utah, and Nevada have state agencies that focus on issues related to African Americans but differ in the overall organizational structure of their agency. The state agencies within Arizona, Utah, and Nevada are either formed as commissions or divisions within a larger state agency. In addition, Utah and Nevada provide services for all minority individuals within their

state.

The creation of the African American Affairs Department could be beneficial for improving the overall financial management of these agencies. Since FY22, OAAA's deputy director has served as the acting executive director for the agency. This has required OAAA's acting executive director to oversee the agency, as well as act as the sole chief financial officer for the agency. The MLK Jr. Commission's executive director also serves as the sole chief financial officer. This has resulted in both agencies having yearly audit findings and general fund revenue reversions since FY22. If this newly created agency were established, they would have the opportunity to advocate for a permanent chief financial officer.

OAAA reports the sponsor of the bill held a meeting with community leaders to discuss HB38. The consensus from the meeting was to maintain the current infrastructure of each agency.

## **ADMINISTRATIVE IMPLICATIONS**

OAAA reports:

The operational mandate of OAAA within HB38 requires the executive director or designee to participate on the task force. This requirement would place additional duties on the current acting executive director as there is no available alternative executive or management designee. The Office of African American Affairs is awaiting the governor's office decision to appoint a new Executive Director.

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