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HOUSE BILL 92

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

J. Paul Taylor

FOR THE SUBCOMMITTEE ON REORGANIZATION

AN ACT

**RELATING TO EXECUTIVE ORGANIZATION; CREATING THE CULTURAL
AFFAIRS DEPARTMENT; PROVIDING FOR A SECRETARY OF CULTURAL
AFFAIRS; PROVIDING POWERS AND DUTIES; TRANSFERRING
APPROPRIATIONS, MONEY, PERSONNEL AND PROPERTY FROM THE OFFICE
OF CULTURAL AFFAIRS TO THE CULTURAL AFFAIRS DEPARTMENT; MAKING
AN APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 10 of this act may be cited as the "Cultural Affairs
Department Act".**

**Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Cultural Affairs Department Act is to create a single, unified
department to administer all laws and exercise all functions
formerly administered and executed by the office of cultural**

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1 affairs.

2 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
3 Cultural Affairs Department Act:

4 A. "department" means the cultural affairs
5 department; and

6 B. "secretary" means the secretary of cultural
7 affairs.

8 Section 4. [NEW MATERIAL] DEPARTMENT CREATED. -- The
9 "cultural affairs department" is created in the executive
10 branch. The department is a cabinet department and includes
11 the following divisions:

12 A. administrative services division;

13 B. arts division;

14 C. historic preservation division;

15 D. library division;

16 E. Hispanic cultural division;

17 F. farm and ranch heritage museum division;

18 G. natural history and science museum division;

19 H. museum of space history division;

20 I. museum services division; and

21 J. the following divisions that make up the museum
22 of New Mexico:

23 (1) palace of the governors state history
24 museum division;

25 (2) museum of fine art division;

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- 1 (3) ~~m~~useum of Indian arts and culture
- 2 ~~di~~vision;
- 3 (4) ~~m~~useum of international folk art division;
- 4 (5) archaeological services division; and
- 5 (6) state ~~mon~~uments division.

6 Section 5. [NEW MATERIAL] SECRETARY. --

7 A. The chief executive and administrative officer
8 of the department is the "secretary of cultural affairs". The
9 secretary shall be appointed by the governor with the consent
10 of the senate. The secretary shall hold the office at the
11 pleasure of the governor and shall serve in the executive
12 cabinet.

13 B. An appointed secretary shall serve and have all
14 the duties, responsibilities and authority of that office
15 during the period of time prior to final action by the senate
16 confirming or rejecting the appointment.

17 Section 6. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL
18 POWERS. --

19 A. The secretary is responsible to the governor for
20 the operation of the department. It is the secretary's duty to
21 manage all operations of the department and to administer and
22 enforce the laws with which he or the department is charged.

23 B. To perform his duties, the secretary has every
24 power expressly enumerated in the laws, whether granted to the
25 secretary of the department, or any division of the department,

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1 except where authority conferred upon any division therein is
2 explicitly exempted from the secretary's authority by statute.

3 In accordance with these provisions, the secretary shall:

4 (1) except as otherwise provided in the
5 Cultural Affairs Department Act, exercise general supervisory
6 and appointing authority over all department employees, subject
7 to any applicable personnel laws and rules;

8 (2) delegate authority to subordinates as he
9 deems necessary and appropriate, clearly delineating such
10 delegated authority and the limitations thereto;

11 (3) organize the department into those
12 organizational units he deems will enable it to function most
13 efficiently, subject to any provisions of law requiring or
14 establishing specific organizational units;

15 (4) within the limitations of available
16 appropriations and applicable laws, employ and fix the
17 compensation of those persons necessary to discharge his
18 duties;

19 (5) take administrative action by issuing
20 orders and instructions, not inconsistent with the law, to
21 ensure implementation of and compliance with the provisions of
22 law for whose administration or execution the secretary is
23 responsible, and to enforce those orders and instructions by
24 appropriate administrative action or actions in the courts;

25 (6) conduct research and studies that will

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1 improve the operations of the department and the provision of
2 services to the citizens of the state;

3 (7) provide courses of instruction and
4 practical training for employees of the department and other
5 persons involved in the administration of programs with the
6 objective of improving the operations and efficiency of the
7 administration;

8 (8) prepare an annual budget of the
9 department;

10 (9) provide cooperation, at the request of
11 heads of administratively attached agencies, in order to:

12 (a) minimize or eliminate duplication of
13 services and jurisdictional conflicts;

14 (b) coordinate activities and resolve
15 problems of mutual concern; and

16 (c) resolve by agreement the manner and
17 extent to which the department shall provide budgeting,
18 record-keeping and related clerical assistance to
19 administratively attached agencies; and

20 (10) appoint, with the governor's consent, for
21 each division, a "director". These appointed positions are
22 exempt from the provisions of the Personnel Act. Persons
23 appointed to these positions shall serve at the pleasure of the
24 secretary.

25 C. The secretary may apply for and receive, with

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1 the governor's approval, in the name of the department, any
2 public or private funds, including United States government
3 funds, available to the department to carry out its programs,
4 duties or services.

5 D. Where functions of departments overlap, or a
6 function assigned to one department could better be performed
7 by another department, a secretary may recommend appropriate
8 legislation to the next session of the legislature for its
9 approval.

10 E. The secretary may make and adopt such reasonable
11 procedural rules as may be necessary to carry out the duties of
12 the department and its divisions. A rule promulgated by the
13 director of a division in carrying out the functions and duties
14 of the division shall not be effective until approved by the
15 secretary. Unless otherwise provided by statute, a rule
16 affecting a person or agency outside the department shall not
17 be adopted, amended or repealed without a public hearing on the
18 proposed action before the secretary or a hearing officer
19 designated by him. The public hearing shall be held in Santa
20 Fe unless otherwise permitted by statute. Notice of the
21 subject matter of the rule, the action proposed to be taken,
22 the time and place of the hearing, the manner in which
23 interested persons may present their views and the method by
24 which copies of the proposed rule, proposed amendment or repeal
25 of an existing rule may be obtained shall be published once at

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1 least thirty days prior to the hearing date in a newspaper of
2 general circulation and mailed at least thirty days prior to
3 the hearing date to all persons who have made a written request
4 for advance notice of hearing. All rules shall be filed in
5 accordance with the State Rules Act.

6 Section 7. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
7 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO
8 INFORMATION.--

9 A. Those organizational units of the department and
10 the officers of those units specified by law shall have all the
11 powers and duties enumerated in the specific laws involved.
12 However, the carrying out of those powers and duties shall be
13 subject to the direction and supervision of the secretary, who
14 shall retain the final decision-making authority and
15 responsibility for the administration of any such laws.

16 B. The department shall have access to all records,
17 data and information of other state departments that are not
18 specifically held confidential by law.

19 Section 8. [NEW MATERIAL] DIVISION DIRECTORS.-- Except as
20 otherwise provided by law, the secretary shall appoint, with
21 the approval of the governor, "directors" of divisions
22 established within the department. The directors so appointed
23 are exempt from the Personnel Act.

24 Section 9. [NEW MATERIAL] BUREAU CHIEFS.-- The secretary
25 may establish within each division such "bureaus" as he deems

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1 necessary to carry out the provisions of the Cultural Affairs
2 Department Act. The secretary shall appoint a "chief" to be
3 the administrative head of a bureau. The chief and all
4 subsidiary employees of the department are covered by the
5 Personnel Act, unless otherwise provided by law.

6 Section 10. [NEW MATERIAL] ADMINISTRATIVE SERVICES
7 DIVISION--DUTIES.--The administrative services division shall
8 provide administrative services to the department, including:
9 A. keeping all official records of the department;
10 B. providing clerical services in the areas of
11 personnel and budget preparation; and
12 C. providing clerical, record-keeping and
13 administrative support to agencies administratively attached to
14 the department, at their request.

15 Section 11. Section 18-2-3 NMSA 1978 (being Laws 1977,
16 Chapter 246, Section 10, as amended) is amended to read:

17 "18-2-3. LIBRARY DIVISION--CREATION--DIRECTOR.--
18 A. The "library division" is created within the
19 [~~office of~~] cultural affairs department.
20 B. Subject to the authority of the [~~state~~]
21 secretary of cultural affairs [~~officer~~], the administrative and
22 executive head of the library division is the "state
23 librarian". The state librarian shall be appointed by the
24 [~~state cultural affairs officer with the consent of the~~]
25 secretary [~~of finance and administration~~]. "

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1 Section 12. [NEW MATERIAL] MUSEUM SERVICES DIVISION. -- The
2 "museum services division" is created within the cultural
3 affairs department. The museum services division shall provide
4 support in exhibitions, statewide education services,
5 publishing and other services requested by the museums or the
6 secretary.

7 Section 13. [NEW MATERIAL] MUSEUM OF FINE ART DIVISION
8 CREATED-- LOCATION-- BOARD OF REGENTS. --The "museum of fine art
9 division" is created in the cultural affairs department. The
10 museum of fine art located in Santa Fe shall be operated as a
11 division of the cultural affairs department under the
12 imprimatur of the museum of New Mexico. The museum of New
13 Mexico board of regents shall exercise trusteeship over the
14 museum of fine art.

15 Section 14. [NEW MATERIAL] PALACE OF THE GOVERNORS STATE
16 HISTORY MUSEUM DIVISION CREATED-- LOCATION-- BOARD OF REGENTS. --
17 The "palace of the governors state history museum division" is
18 created in the cultural affairs department. The palace of the
19 governors state history museum located in Santa Fe shall be
20 operated as a division of the cultural affairs department under
21 the imprimatur of the museum of New Mexico. The museum of New
22 Mexico board of regents shall exercise trusteeship over the
23 palace of the governors state history museum.

24 Section 15. [NEW MATERIAL] MUSEUM OF INTERNATIONAL FOLK
25 ART DIVISION CREATED-- LOCATION-- BOARD OF REGENTS. --The "museum

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1 of international folk art division" is created in the cultural
2 affairs department. The museum of international folk art
3 located in Santa Fe shall be operated as a division of the
4 cultural affairs department under the imprimatur of the museum
5 of New Mexico. The museum of New Mexico board of regents shall
6 exercise trusteeship over the museum of international folk art.

7 Section 16. [NEW MATERIAL] MUSEUM OF INDIAN ARTS AND
8 CULTURE DIVISION CREATED-- LOCATION-- BOARD OF REGENTS. -- The
9 "museum of Indian arts and culture division" is created in the
10 cultural affairs department. The museum of Indian arts and
11 culture located in Santa Fe shall be operated as a division of
12 the cultural affairs department under the imprimatur of the
13 museum of New Mexico. The museum of New Mexico board of
14 regents shall exercise trusteeship over the museum of Indian
15 arts and culture.

16 Section 17. [NEW MATERIAL] STATE MONUMENTS DIVISION
17 CREATED-- BOARD OF REGENTS. --

18 A. The "state monuments division" is created in the
19 cultural affairs department. The division shall manage the
20 state's monuments, including:

- 21 (1) Coronado state monument;
- 22 (2) Jemez state monument;
- 23 (3) Fort Selden state monument;
- 24 (4) Fort Sumner state monument;
- 25 (5) Lincoln state monument;

1 (6) el camino real international heritage
2 center; and

3 (7) Mesilla state monument.

4 B. The state monuments shall operate under the
5 imprimatur of the museum of New Mexico. The museum of New
6 Mexico board of regents shall exercise trusteeship over the
7 state monuments.

8 Section 18. [NEW MATERIAL] ARCHAEOLOGICAL SERVICES
9 DIVISION CREATED-- BOARD OF REGENTS. --

10 A. The "archaeological services division" is
11 created in the cultural affairs department. The division shall
12 be operated as a division of the cultural affairs department
13 under the imprimatur of the museum of New Mexico.

14 B. The museum of New Mexico board of regents shall
15 exercise trusteeship over the archaeological services division.

16 Section 19. Section 18-3-1 NMSA 1978 (being Laws 1975,
17 Chapter 264, Section 1, as amended) is amended to read:

18 "18-3-1. MUSEUM OF NEW MEXICO ESTABLISHED-- LOCATION--
19 PROPERTY. --

20 A. The "museum of New Mexico" is established. [~~It~~
21 ~~shall have headquarters in Santa Fe, New Mexico.~~] All
22 properties, real or personal, now held for museum purposes and
23 all properties, real or personal, which may be acquired for
24 museum purposes at any time in the future shall be under
25 the control of the [~~museum division of the office of~~] cultural

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1 affairs department.

2 B. The museum of New Mexico consists of:

3 (1) the palace of the governors state history
4 museum;

5 (2) the museum of fine art;

6 (3) the museum of Indian arts and culture;

7 (4) the museum of international folk art;

8 (5) archaeological services; and

9 (6) the state monuments:

10 (a) Coronado state monument;

11 (b) Jemez state monument;

12 (c) Fort Selden state monument;

13 (d) Fort Sumner state monument;

14 (e) Lincoln state monument;

15 (f) el camino real international

16 heritage center; and

17 (g) Mesilla state monument."

18 Section 20. Section 18-3-8 NMSA 1978 (being Laws 1949,
19 Chapter 74, Section 1, as amended) is amended to read:

20 "18-3-8. LABORATORY OF ANTHROPOLOGY-- ACCEPTANCE OF DEED
21 AND TITLE. --The state of New Mexico accepts the deed and bill
22 of sale and the title of the laboratory of anthropology
23 building and land described in the deed dated September 30,
24 1947 and directs that the property become part of the museum of
25 New Mexico and be controlled and administered by the [museum

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1 ~~division of the office of~~] cultural affairs department. "

2 Section 21. Section 18-3A-3 NMSA 1978 (being Laws 1980,
3 Chapter 128, Section 3, as amended) is amended to read:

4 "18-3A-3. DEFINITIONS. -- As used in the Natural History
5 and Science Museum Act:

6 A. "board" means the board of trustees of the New
7 Mexico museum of natural history and science;

8 B. "director" means the director of the [~~natural~~
9 ~~history and science museum~~] division [~~of the office of cultural~~
10 ~~affairs or its successor agency~~];

11 C. "division" means the natural history and science
12 museum division of the [~~office of~~] cultural affairs [~~or its~~
13 ~~successor agency~~] department;

14 D. "museum" means the New Mexico museum of natural
15 history and science;

16 E. "natural history" means that which pertains to
17 the earth and its life, including but not limited to the fields
18 of biology, geology and related life sciences; and

19 F. "physical science" means that which pertains to
20 mathematics, physics, chemistry, astronomy and related sciences
21 and technologies. "

22 Section 22. Section 18-3A-4 NMSA 1978 (being Laws 1980,
23 Chapter 128, Section 4, as amended) is amended to read:

24 "18-3A-4. NATURAL HISTORY AND SCIENCE MUSEUM DIVISION--
25 CREATION-- LOCATION-- PROPERTY. --

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1 A. The "natural history and science museum
2 division" is created within the [~~office of~~] cultural affairs
3 [~~or its successor agency~~] department. The principal facility
4 of this division [~~shall be known as~~] is the "New Mexico museum
5 of natural history and science" [~~and shall be~~] located in
6 Albuquerque [~~Bernalillo county, New Mexico~~]. The site shall be
7 held in the name of the state.

8 B. All property, real or personal, now held or
9 subsequently acquired for the operation of the museum shall be
10 under the control and authority of the board.

11 C. Funds or other property received by gift,
12 endowment or legacy shall remain under the control of the board
13 and shall, upon acceptance, be employed for the purpose
14 specified. "

15 Section 23. Section 18-3A-7 NMSA 1978 (being Laws 1987,
16 Chapter 38, Section 5) is amended to read:

17 "18-3A-7. BOARD--POWERS AND DUTIES.--The board shall:

18 A. exercise trusteeship over the collections of the
19 museum;

20 B. accept and hold title to all property for museum
21 use;

22 C. review annually the performance of the director
23 and report its findings to the [~~state~~] secretary of cultural
24 affairs [~~officer~~];

25 D. enter into agreements or contracts with private

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1 or public organizations, agencies or individuals for the
2 purpose of obtaining real or personal property for museum use;

3 E. authorize the director to solicit and receive
4 funds or property of any nature for the development of the
5 museum, its collections and its programs;

6 F. adopt such ~~[regulations]~~ rules as may be
7 necessary to carry out the provisions of this section; and

8 G. establish museum policy and determine the
9 mission and direct the development of the institution subject
10 to the decision of the ~~[state cultural affairs officer or his~~
11 ~~successor]~~ secretary of cultural affairs in event of conflict
12 between the board and the ~~[office of]~~ cultural affairs ~~[or its~~
13 ~~successor agency]~~ department. "

14 Section 24. Section 18-4-6 NMSA 1978 (being Laws 1949,
15 Chapter 138, Section 5, as amended) is amended to read:

16 "18-4-6. LINCOLN MONUMENT--STATE MONUMENTS DIVISION--
17 POWERS AND DUTIES. --The ~~[museum division of the office of]~~
18 state monuments division of the cultural affairs department
19 shall be entrusted with the protection and preservation of the
20 old Lincoln county courthouse. The ~~[museum]~~ state monuments
21 division shall maintain and operate the monument as a memorial
22 and state museum of old Lincoln county, shall have power to
23 acquire and hold real estate in the name of the state and to
24 act in cooperation with the federal government or any of its
25 agencies in preserving the monument and shall have power to

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1 accept gifts, grants and donations from any person, firm,
2 corporation, agency or any group of persons for the collections
3 of the museum or the maintenance and operation of the
4 monument. "

5 Section 25. Section 18-5-2 NMSA 1978 (being Laws 1978,
6 Chapter 70, Section 1, as amended) is amended to read:

7 "18-5-2. DEFINITIONS. --As used in [~~Sections 18-5-2~~
8 ~~through 18-5-7~~] Chapter 18, Article 5 NMSA 1978:

9 A. "commission" means the New Mexico arts
10 commi ssi on;

11 B. "creative arts" means the act of writing,
12 composing or designating and executing literature, including
13 poetry; drama; music, including opera and choral works; ballet
14 and [~~the~~] dance; painting; sculpturing; [~~the~~] graphic arts;
15 photography; crafts; architecture; and films and television;

16 C. "director" means the executive head of the
17 divisi on;

18 D. "division" means the arts division of the
19 [~~office of~~] cultural affairs department; and

20 E. "interpretative arts" means the act of
21 interpreting the creative arts, including designing,
22 publishing, printing and collecting of books; the producing,
23 directing and performing of dramas; the performing of music and
24 the producing, directing and performing of operas and choral
25 works; the producing, directing and performing of ballet and

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1 dance; the conservation of architecture; and the producing,
2 directing and performing of films and television. "

3 Section 26. Section 18-5-6 NMSA 1978 (being Laws 1978,
4 Chapter 70, Section 5, as amended) is amended to read:

5 "18-5-6. DIVISION-- CREATION-- DIRECTOR-- APPOINTMENT. --

6 A. The "arts division" is created within the
7 [~~office of~~] cultural affairs department.

8 B. Subject to the authority of the [state]
9 secretary of cultural affairs [~~officer~~], the administrative and
10 executive head of the arts division is the "director" of the
11 arts division. [~~With the secretary's consent~~] The director
12 shall be hired by the [~~state cultural affairs officer~~]
13 secretary from a list of three to five names supplied by the
14 commi ssi on. "

15 Section 27. Section 18-6-1 NMSA 1978 (being Laws 1969,
16 Chapter 223, Section 1, as amended) is amended to read:

17 "18-6-1. SHORT TITLE. -- [~~Sections 4-27-4 through 4-27-18~~
18 ~~NMSA 1953~~] Sections 18-6-1 through 18-6-17 NMSA 1978 may be
19 cited as the "Cultural Properties Act". "

20 Section 28. Section 18-6-6 NMSA 1978 (being Laws 1969,
21 Chapter 223, Section 6, as amended) is amended to read:

22 "18-6-6. [~~MUSEUM DIVISION~~] CULTURAL AFFAIRS DEPARTMENT--
23 POWERS AND DUTIES RELATING TO THE CULTURAL PROPERTIES ACT
24 [~~DIRECTOR~~]. --

25 A. The [~~museum division of the office of~~] cultural

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1 affairs department is responsible for administering, developing
2 and maintaining all registered cultural properties in its
3 ownership or custody.

4 B. Unless other locations are deemed more
5 appropriate by the committee, in consultation with the museum
6 of New Mexico, because of the nature of the property involved,
7 the [~~museum division~~] cultural affairs department shall be the
8 depository for all collections made under the provisions of the
9 Cultural Properties Act and shall make available material from
10 such collections to museums in and out of the state on the
11 request of the governing bodies of those museums when, in the
12 opinion of the [~~director of the museum division~~] department,
13 such use is appropriate and when arrangements are made for the
14 safe custodianship and public exhibition of the material in
15 accordance with [~~museum division regulations~~] department rules.
16 The museum of New Mexico shall maintain a record of the
17 location of all such collections.

18 C. The [~~museum division~~] cultural affairs
19 department may seek and accept gifts, donations and grants,
20 subject to the provisions of Subsection B of Section 18-6-7
21 NMSA 1978, to be used to acquire, preserve or restore
22 registered cultural properties.

23 D. The [~~museum division~~] cultural affairs
24 department may acquire by gift, purchase or, if no other means
25 of acquisition are available, condemnation any cultural

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1 property or interest therein sufficient to preserve such
2 property. Cultural properties so acquired shall be
3 administered by the [~~museum division~~] department or other
4 appropriate state agencies in accordance with Subsections A and
5 B of this section.

6 E. The [~~museum division~~] cultural affairs
7 department may enter into agreements with the committee to
8 provide assistance in carrying out the duties of the
9 committee. "

10 Section 29. Section 18-6-7 NMSA 1978 (being Laws 1969,
11 Chapter 223, Section 7, as amended) is amended to read:

12 "18-6-7. HISTORIC PRESERVATION DIVISION--PLANNING--FISCAL
13 ADMINISTRATION AND COOPERATION FOR PURPOSES OF THE CULTURAL
14 PROPERTIES ACT. --

15 A. The state historic preservation officer of the
16 historic preservation division of the [~~office of~~] cultural
17 affairs department shall, with the concurrence of the
18 committee, prepare a long-range plan for the preservation of
19 cultural properties, including but not limited to the
20 identification, acquisition, restoration and protection of
21 historic and cultural properties and [~~in cooperation with the~~
22 ~~museum division~~] the maintenance and expansion of statewide
23 historic and prehistoric site data bases.

24 B. The historic preservation division shall
25 administer funds [~~which~~] that are received, controlled and

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1 disbursed for the purposes of the Cultural Properties Act,
2 unless such funds are specifically granted or appropriated to
3 another agency.

4 C. Consistent with the Cultural Properties Act, the
5 historic preservation division shall cooperate in all matters
6 with the committee and [~~the museum division~~] other divisions of
7 the [~~office of~~] cultural affairs department. "

8 Section 30. Section 18-6-8 NMSA 1978 (being Laws 1977,
9 Chapter 246, Section 38, as amended) is amended to read:

10 "18-6-8. STATE HISTORIC PRESERVATION OFFICER--
11 APPOINTMENT-- QUALIFICATIONS-- DUTIES. --

12 A. The "historic preservation division" is created
13 within the [~~office of~~] cultural affairs department.

14 B. The state historic preservation officer shall be
15 the director of the division and shall be hired by the [~~state~~]
16 secretary of cultural affairs [~~officer~~] with the consent of the
17 governor. The position's qualifications shall be consistent
18 with but not limited to the following:

19 (1) a graduate degree in American history,
20 anthropology, architecture or historic preservation; [~~or~~]

21 (2) at least five years of professional
22 experience in American history, anthropology, architecture or
23 historic preservation or any combination of these; or

24 (3) a substantial contribution through
25 research and publication to the body of scholarly knowledge in

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1 the field of American history, anthropology, architecture or
2 historic preservation or any combination of these.

3 C. The state historic preservation officer shall
4 administer the Cultural Properties Act, including but not
5 limited to being administrative head of all Cultural Properties
6 Act functions assigned to the historic preservation division by
7 law or executive order. In addition, the state historic
8 preservation officer shall coordinate all duties performed by,
9 and cooperate with, the committee, [~~the museum division~~] the
10 secretary of cultural affairs and any other entities, public or
11 private, involved with cultural properties.

12 D. The state historic preservation officer, in
13 conjunction with the [~~state~~] secretary of cultural affairs
14 [~~officer~~]:

15 (1) shall provide staff to the [~~cultural~~
16 ~~properties review~~] committee;

17 (2) shall maintain the state register of
18 cultural properties;

19 (3) may fund historic site surveys and may
20 fund restorations;

21 (4) shall administer historic preservation tax
22 benefit programs; and

23 (5) shall review state undertakings to
24 determine their effect upon significant historic properties. "

25 Section 31. Section 18-6-15 NMSA 1978 (being Laws 1969,

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1 Chapter 223, Section 13, as amended) is amended to read:

2 "18-6-15. STATE ARCHAEOLOGIST. --The state archaeologist
3 in the [~~office of~~] cultural affairs department is designated as
4 "state archaeologist" for the purposes of the Cultural
5 Properties Act. The state archaeologist shall be
6 professionally recognized in the discipline of archaeology,
7 shall have achieved recognition for accomplishments in his
8 field in the American southwest and shall have a specialized
9 knowledge of New Mexico. "

10 Section 32. Section 18-6-16 NMSA 1978 (being Laws 1978,
11 Chapter 53, Section 1, as amended) is amended to read:

12 "18-6-16. PREPARATION AND SALE OF CULTURAL PROPERTIES
13 PUBLICATIONS--REVOLVING FUND--REPORT. --The historic
14 preservation division [~~of the office of cultural affairs~~] shall
15 encourage and promote publications relating to cultural
16 properties [~~which~~] that have been prepared pursuant to the
17 Cultural Properties Act. The historic preservation division
18 may prepare or contract for the preparation of such
19 publications on the condition that it receives from the sale of
20 [~~such~~] the publications the amount expended plus interest on
21 that amount compounded annually at the prime lending rate
22 quoted in the Wall Street Journal on the effective date of the
23 contract until the expended amount is reimbursed in full to the
24 division. All receipts from such sales shall go into a special
25 revolving fund, which is hereby established. The historic

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1 preservation division shall adopt [~~regulations~~] rules
2 establishing guidelines and fiscal controls over the use of the
3 revolving fund. "

4 Section 33. Section 18-6-20 NMSA 1978 (being Laws 1987,
5 Chapter 7, Section 3) is amended to read:

6 "18-6-20. DEFINITIONS. -- As used in the Historic
7 Preservation Loan Act:

8 A. "committee" means the cultural properties review
9 committee;

10 B. "division" means the historic preservation
11 division of the [~~office of~~] cultural affairs department;

12 C. "fund" means the historic preservation loan
13 fund;

14 D. "property owner" means the sole owner, joint
15 owner, owner in partnership or corporate owner of a registered
16 cultural property. As used in this subsection, the term
17 "property owner" includes the owner of a leasehold interest in
18 a registered cultural property, if the term of the lease is not
19 less than nineteen years; and

20 E. "registered cultural property" means [~~any~~] a
21 site, structure, building or object entered in the state
22 register of cultural properties or the national register of
23 historic places or both. "

24 Section 34. Section 18-6A-1 NMSA 1978 (being Laws 1993,
25 Chapter 176, Section 1) is amended to read:

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1 "18-6A-1. SHORT TITLE. -- [~~Sections 1 through 6 of this~~
2 ~~act~~] Chapter 18, Article 6A NMSA 1978 may be cited as the
3 "Cultural Properties Protection Act". "

4 Section 35. Section 18-6A-2 NMSA 1978 (being Laws 1993,
5 Chapter 176, Section 2) is amended to read:

6 "18-6A-2. DEFINITIONS. -- As used in the Cultural
7 Properties Protection Act:

8 A. "committee" means the cultural properties review
9 committee;

10 B. "cultural property" means a structure, place,
11 site or object having historic, archaeological, scientific,
12 architectural or other cultural significance;

13 C. "division" means the historic preservation
14 division of the [~~office of~~] cultural affairs department;

15 D. "fund" means the cultural properties restoration
16 fund;

17 E. "interpretation" means the inventory,
18 registration, mapping and analysis of cultural properties and
19 public educational programs designed to prevent the loss of
20 cultural properties;

21 F. "officer" means the state historic preservation
22 officer;

23 G. "preservation" means sustaining the existing
24 form, integrity and material of a cultural property or the
25 existing form and vegetative cover of a cultural property and

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1 may include protective maintenance or stabilization where
2 necessary in the case of archaeological sites;

3 H. "professional survey" means an archaeological or
4 architectural survey;

5 I. "protection" means safeguarding the physical
6 condition or environment of a cultural property from
7 deterioration or damage caused by weather or other natural,
8 animal or human intrusions;

9 J. "restoration" means recovering the general
10 historic appearance of a cultural property or the form and
11 details of an object or structure by removing incompatible
12 natural or human-caused accretions and replacing missing
13 elements as appropriate;

14 K. "stabilization" means reestablishing the
15 structural stability or weather-resistant condition of a
16 cultural property or arresting deterioration that may lead to
17 structural failure;

18 L. "state agency" means a department, agency,
19 institution or political subdivision of the state; and

20 M "state land" means property owned, controlled or
21 operated by a state agency. "

22 Section 36. Section 18-7-1 NMSA 1978 (being Laws 1978,
23 Chapter 72, Section 1, as amended by Laws 2001, Chapter 275,
24 Section 2 and by Laws 2001, Chapter 278, Section 2) is amended
25 to read:

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1 "18-7-1. [~~NEW MEXICO~~] MUSEUM OF SPACE HISTORY DIVISION--
2 CREATION. -- [~~There is created within the office of cultural~~
3 ~~affairs~~] The "[~~New Mexico~~] museum of space history division" is
4 created within the cultural affairs department. The principal
5 facility of the division is the "museum of space history"
6 located in Alamogordo. The site shall be held in the name of
7 the state. "

8 Section 37. Section 18-7-3 NMSA 1978 (being Laws 1978,
9 Chapter 72, Section 3, as amended by Laws 2001, Chapter 275,
10 Section 4 and by Laws 2001, Chapter 278, Section 4) is amended
11 to read:

12 "18-7-3. COMMISSION-- [~~DIRECTOR~~] POWERS-- DUTIES. -- The [~~New~~
13 ~~Mexico~~] museum of space history commission [~~of the office of~~
14 ~~cultural affairs~~] shall construct, maintain and operate the
15 [~~New Mexico~~] museum of space history for the benefit of the
16 people of New Mexico, the nation and the world as an
17 educational project interpreting man's conquest of space. [~~The~~
18 ~~commission shall establish policy for the general operation of~~
19 ~~the New Mexico museum of space history division.~~] The director
20 of [~~that~~] the division, under the supervision of the
21 commission, shall:

22 A. collect and preserve objects relating to the
23 history of rocketry, space flight, astronomy and related
24 fields;

25 B. conduct research programs necessary to document

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1 the historical, scientific and technological advances of
2 rocketry, space flight, astronomy and related fields;

3 C. disseminate the results of division research
4 efforts through exhibits, public programs, publications and
5 other methods deemed appropriate by the commission;

6 D. establish educational programs relating to
7 space;

8 E. purchase supplies and necessary equipment and
9 tools;

10 F. accept for the [~~New Mexico~~] museum [~~of space~~
11 ~~history~~] any federal matching funds or grants available for
12 this project and related programs;

13 G. accept donations and bequests from individuals
14 and entities for the [~~New Mexico~~] museum [~~of space history~~] and
15 related programs;

16 H. acquire real and personal property in the name
17 of the state for the [~~New Mexico~~] museum [~~of space history~~];

18 I. employ and discharge personnel necessary for the
19 operation of the [~~New Mexico~~] museum [~~of space history~~];

20 J. prepare budgets for operation and capital
21 improvements;

22 K. assume other duties and responsibilities as
23 deemed necessary by the [~~New Mexico museum of space history~~]
24 commission;

25 L. assume responsibility for new and related

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1 facilities as required; and

2 M subject to the provisions of Section 18-7-3.1
3 NMSA 1978, impose admission fees to the museum facilities and
4 programs. "

5 Section 38. Section 18-7-4 NMSA 1978 (being Laws 1978,
6 Chapter 72, Section 4, as amended by Laws 2001, Chapter 275,
7 Section 5 and by Laws 2001, Chapter 278, Section 5) is amended
8 to read:

9 "18-7-4. DIRECTOR--EMPLOYMENT.--The director of the [New
10 Mexico] museum of space history division shall be hired by the
11 [New Mexico museum of space history commission, subject to
12 approval by the state] secretary of cultural affairs [officer
13 and with the consent of the secretary of finance and
14 administration. The director of the division may be discharged
15 from employment by the commission for failure to perform his
16 duties or follow the policies set forth by the commission]. "

17 Section 39. Section 18-8-3 NMSA 1978 (being Laws 1989,
18 Chapter 13, Section 3) is amended to read:

19 "18-8-3. DEFINITIONS.--As used in the New Mexico
20 Prehistoric and Historic Sites Preservation Act:

21 A. "corporation" means a nonprofit corporation,
22 formally recognized as tax exempt under Section 501(c)3 of the
23 Internal Revenue Code of 1986, whose declared purposes include
24 the investigation, preservation or conservation of significant
25 prehistoric or historic sites;

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1 B. "division" means the historic preservation
2 division of the [~~office of~~] cultural affairs department; and

3 C. "significant prehistoric or historic sites"
4 [~~mean~~] means properties listed in the state register of
5 cultural properties or national register of historic places. "

6 Section 40. Section 18-11-1 NMSA 1978 (being Laws 1991,
7 Chapter 48, Section 1) is amended to read:

8 "18-11-1. SHORT TITLE. -- [~~Sections 1 through 9 of this~~
9 ~~act~~] Chapter 18, Article 11 NMSA 1978 may be cited as the "Farm
10 and Ranch Heritage Museum Act". "

11 Section 41. Section 18-11-2 NMSA 1978 (being Laws 1991,
12 Chapter 48, Section 2) is amended to read:

13 "18-11-2. DECLARATION AND PURPOSE OF ACT. -- The
14 legislature [~~of New Mexico~~] declares that the farming and
15 ranching industry of the state has produced a unique common
16 heritage of which all persons should receive knowledge and
17 benefit. The purpose of the Farm and Ranch Heritage Museum Act
18 is to create a [~~New Mexico~~] farm and ranch heritage museum
19 [~~division of the office of cultural affairs~~], which shall
20 collect, preserve, study and display materials representative
21 of the farming and ranching of the state and region and develop
22 and maintain exhibits and programs of an educational nature for
23 the benefit of the citizens of New Mexico and visitors to the
24 state. "

25 Section 42. Section 18-11-3 NMSA 1978 (being Laws 1991,

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1 Chapter 48, Section 3) is amended to read:

2 "18-11-3. DEFINITIONS. -- As used in the Farm and Ranch
3 Heritage Museum Act:

4 A. "board" means the ~~[governing board of the~~
5 ~~division]~~ board of the farm and ranch heritage museum;

6 B. "director" means the director of the division;

7 C. "division" means the ~~[New Mexico]~~ farm and ranch
8 heritage museum division of the ~~[office of]~~ cultural affairs
9 ~~[or its successor agency]~~ department;

10 D. "farm and ranch" means that which pertains to
11 the field of agriculture and the various industries that affect
12 agriculture, including but not limited to agronomy, livestock
13 management, veterinary medicine, agricultural nutrition and
14 other related agricultural businesses and sciences; and

15 E. "museum" means the principal facility of the
16 division, including all real and personal property of the
17 division. "

18 Section 43. Section 18-11-4 NMSA 1978 (being Laws 1991,
19 Chapter 48, Section 4) is amended to read:

20 "18-11-4. DIVISION CREATED-- OPERATION-- LOCATION--
21 PROPERTY. --

22 A. The "~~[New Mexico]~~ farm and ranch heritage museum
23 division" is created within the ~~[office of]~~ cultural affairs
24 ~~[or its successor agency]~~ department.

25 B. The ~~[principal facility of the division shall be~~

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1 ~~known as the "New Mexico]~~ "farm and ranch heritage museum"
2 [~~and]~~ shall be located on the campus of New Mexico state
3 university in Dona Ana county.

4 C. All property, real or personal, now held or
5 subsequently acquired for the operation of the museum shall be
6 under the control and authority of the [~~office of]~~ cultural
7 affairs department.

8 D. Funds or other property received by gift,
9 endowment or legacy shall remain under the control of the
10 [~~office of]~~ cultural affairs department and shall, upon
11 acceptance, be employed for the purpose specified. "

12 Section 44. Section 18-11-5 NMSA 1978 (being Laws 1991,
13 Chapter 48, Section 5) is amended to read:

14 "18-11-5. BOARD CREATED-- APPOINTMENT-- TERMS-- OFFICERS. --

15 A. The "board of the [~~New Mexico]~~ farm and ranch
16 heritage museum [~~division]~~" is created.

17 B. The board shall consist of one nonvoting member
18 and eleven voting members who are residents of New Mexico, as
19 follows:

20 (1) eight members shall be appointed by the
21 governor with the advice and consent of the senate. Five of
22 those eight members shall be farmers or ranchers and three
23 members shall be from the general public. The five farmer and
24 rancher members of the original board shall be appointed from a
25 list of eight names submitted by the board of directors of the

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1 New Mexico farm and ranch heritage institute foundation,
2 incorporated, from a list of [~~individuals~~] persons recommended
3 by farm and ranch organizations. When a vacancy occurs in any
4 of the five farmer and rancher positions, two names shall be
5 submitted to the governor by the board for each vacancy from a
6 list of [~~individuals~~] persons recommended by farm and ranch
7 organizations. No more than four of the eight appointed
8 members shall be from the same political party. In making
9 these appointments, due consideration shall be given to the
10 distribution of places of residence and to individual interests
11 and backgrounds in farming and ranching. Initially, two
12 members shall be appointed for terms of two years, three
13 members shall be appointed for terms of three years and three
14 members shall be appointed for terms of four years.
15 Thereafter, members of the board shall be appointed for terms
16 of four years or less so that the staggered expiration dates
17 are maintained;

18 (2) [~~one member from each of~~] the following
19 [~~organizations~~] shall have [a] permanent [~~seat~~] seats on the
20 board:

21 (a) the director of the New Mexico
22 department of agriculture or his designee;

23 (b) the dean of the college of
24 agriculture and home economics of New Mexico state university
25 or his designee; and

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1 (c) the ~~[state]~~ secretary of cultural
2 affairs ~~[officer]~~ or his designee; and

3 (3) the director shall be a nonvoting member
4 of the board.

5 C. A member of the board shall not be removed
6 during his term except for misconduct, incompetence, neglect of
7 duty or malfeasance in office. No removal shall be made
8 without prior approval of the senate.

9 D. The chairman of the board and other officers, as
10 deemed necessary by the board, shall be elected by the board
11 annually at its first scheduled meeting after July 1. "

12 Section 45. Section 18-11-7 NMSA 1978 (being Laws 1991,
13 Chapter 48, Section 7) is amended to read:

14 "18-11-7. BOARD--POWERS AND DUTIES.--The board shall:

15 A. establish museum policy and determine the
16 mission and direct the development of the museum subject to the
17 approval of the ~~[state]~~ secretary of cultural affairs
18 ~~[officer]~~;

19 B. adopt ~~[regulations]~~ rules that may be necessary
20 to carry out the provisions of this section;

21 C. exercise trusteeship over the collections of the
22 museum;

23 D. accept and hold title to all property for museum
24 use;

25 E. approve contracts or agreements that the

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1 division may enter into with private or public organizations,
2 institutions, agencies or individuals to carry out the purposes
3 of the Farm and Ranch Heritage Museum Act;

4 F. authorize the director to solicit and receive
5 funds or property of any nature for the development of the
6 museum, its collections and its programs; and

7 G. review annually the performance of the director
8 and report its findings to the [~~state cultural affairs officer~~]
9 secretary of cultural affairs. "

10 Section 46. Section 18-11-9 NMSA 1978 (being Laws 1991,
11 Chapter 48, Section 9) is amended to read:

12 "18-11-9. DIRECTOR--POWERS AND DUTIES.--Consistent with
13 the policies agreed to by the board and the [~~state~~] secretary
14 of cultural affairs [~~officer~~], the director:

15 A. shall be responsible for the administration and
16 operation of the museum in accordance with the applicable
17 statutes and [~~regulations~~] rules;

18 B. shall develop exhibits and programs of an
19 educational nature for the benefit of the public and in
20 particular the students of schools of the state;

21 C. shall acquire, as authorized by the board, in
22 the name of the [~~division~~] state, through donation or other
23 means, both real and personal property, including artifacts,
24 collections and related materials appropriate to a farm and
25 ranch museum and shall direct field and laboratory research as

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1 is appropriate to render the collections beneficial to the
2 scientific community and to the public;

3 D. may solicit and receive funds or property of any
4 nature, including federal funds and public and private grants,
5 for the development of the museum, its collections or its
6 programs;

7 E. may enter into contracts with public or private
8 organizations, individuals or agencies for the performance of
9 services related to the location, preservation, development,
10 study or salvage of historical agricultural sites or materials;

11 F. shall cooperate with institutions of higher
12 learning and other agencies and political subdivisions of
13 municipal, state and federal governments to establish, maintain
14 and extend the programs of the museum;

15 G. shall employ and discharge personnel necessary
16 for the operation of the museum in accordance with the
17 provisions set forth in the Personnel Act;

18 H. shall assume responsibility for new and related
19 facilities as required by the division;

20 I. may, as authorized by the board, lend
21 collections or materials to qualified institutions and agencies
22 for purposes of exhibition and study and borrow collections or
23 materials from other institutions and agencies for like
24 ~~[purpose]~~ purposes;

25 J. shall impose and collect admission fees and

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1 conduct such retail sales as are normal for the operation of
2 the museum;

3 K. may publish such journals, books, reports and
4 other materials as are appropriate to the operation of the
5 museum; and

6 L. shall perform such other appropriate duties as
7 may be delegated by the board or as may be provided by law. "

8 Section 47. Section 18-12-2 NMSA 1978 (being Laws 1993,
9 Chapter 42, Section 2, as amended) is amended to read:

10 "18-12-2. DEFINITIONS. -- As used in the National Hispanic
11 Cultural Center Act:

12 A. "board" means the board of directors of the
13 center;

14 B. "center" means the national Hispanic cultural
15 center;

16 C. "division" means the Hispanic cultural division
17 of the [~~office of~~] cultural affairs department; and

18 D. "[~~executive~~] director" means the [~~executive~~]
19 director of the division. "

20 Section 48. Section 18-12-3 NMSA 1978 (being Laws 1993,
21 Chapter 42, Section 3, as amended) is amended to read:

22 "18-12-3. HISPANIC CULTURAL DIVISION-- CREATION--
23 PROPERTY. --

24 A. The "Hispanic cultural division" is created
25 within the [~~office of~~] cultural affairs department. [A] The

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1 principal facility of this division shall be known as the
2 "national Hispanic cultural center".

3 B. All property, real or personal, now held or
4 subsequently acquired for the operation of the center shall be
5 under the control and authority of the board.

6 C. Funds or other property received by gift,
7 endowment or legacy shall remain under the control of the board
8 and shall, upon acceptance, be employed for the purpose
9 specified. "

10 Section 49. Section 18-12-5 NMSA 1978 (being Laws 1993,
11 Chapter 42, Section 5) is amended to read:

12 "18-12-5. BOARD--POWERS AND DUTIES.--The board shall:

13 A. exercise trusteeship over the collections of the
14 center;

15 B. accept and hold title to all property for the
16 center's use;

17 C. review annually the performance of the
18 [executive] director and report its findings to the [state]
19 secretary of cultural affairs [officer];

20 D. enter into agreements or contracts with private
21 or public organizations, agencies or individuals for the
22 purpose of obtaining real or personal property for the center's
23 use;

24 E. authorize the [executive] director to solicit
25 and receive funds or property of any nature for the development

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1 of the center, its collections and its programs;

2 F. adopt such ~~[regulations]~~ rules as may be
3 necessary to carry out the provisions of the ~~[New Mexico]~~
4 National Hispanic Cultural Center Act; and

5 G. establish policy, determine the mission and
6 direct the development of the center. "

7 Section 50. Section 18-12-7 NMSA 1978 (being Laws 1993,
8 Chapter 42, Section 7) is amended to read:

9 "18-12-7. ~~[EXECUTIVE]~~ DIRECTOR--POWERS AND DUTIES.--
10 Subject to the policies agreed to by the board, the ~~[executive]~~
11 director:

12 A. shall be responsible for the ~~[administration of~~
13 ~~the division and for the]~~ operation of the center, in
14 accordance with all appropriate statutes and ~~[regulations]~~
15 rules;

16 B. shall develop exhibits and programs displaying
17 Hispanic culture, arts and humanities for the benefit of the
18 public and with particular concern for the interests of the
19 schools of the state;

20 C. shall acquire by donation or other means of
21 acquisition collections and related materials appropriate to an
22 Hispanic cultural center and shall direct research as is
23 appropriate to render the collections of benefit to the public;

24 D. shall employ such professional staff and other
25 employees as are necessary to the operation of the center in

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1 accordance with the provisions of the Personnel Act;

2 E. may solicit and receive funds or property of any
3 nature for the development of the center;

4 F. may enter into contracts with public or private
5 organizations, individuals or agencies for the performance of
6 services related to the location, preservation, development,
7 study or salvage of Hispanic cultural materials;

8 G. shall cooperate with institutions of higher
9 education and other agencies and political subdivisions of
10 municipal, state and federal governments to establish, maintain
11 and extend the programs of the center;

12 H. may, as authorized by the board, lend collection
13 materials to qualified institutions and agencies for purposes
14 of exhibition and study and borrow collection materials from
15 other institutions and agencies for the same purpose;

16 I. shall impose and collect admission fees and
17 conduct retail sales as are normal for the operation of the
18 center;

19 J. may publish journals, books, reports and other
20 materials as are appropriate to the operation of the center;
21 and

22 K. shall perform other appropriate duties as may be
23 delegated by the governor, the [state] secretary of cultural
24 affairs [~~officer or a successor~~] or the board or as may be
25 provided by law. "

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1 Section 51. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
2 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW. --

3 A. The transfer of functions, personnel,
4 appropriations, money, records, equipment, supplies, other
5 property and contractual obligations of the office of cultural
6 affairs to the cultural affairs department pursuant to
7 executive order issued in accordance with Laws 2003, Chapter
8 403 is approved.

9 B. All references in law to the office of cultural
10 affairs shall be deemed to be references to the cultural
11 affairs department.

12 Section 52. TEMPORARY PROVISION--RECOMPILATION. --Section
13 18-3-8 NMSA 1978 (being Laws 1949, Chapter 74, Section 1, as
14 amended) is recompiled into the Cultural Affairs Department
15 Act.

16 Section 53. APPROPRIATION.--Five hundred thousand dollars
17 (\$500,000) is appropriated from the general fund to the
18 cultural affairs department for expenditure in fiscal year 2005
19 for organizational and operational expenses. Any unexpended or
20 unencumbered balance remaining at the end of fiscal year 2005
21 shall revert to the general fund.

22 Section 54. REPEAL. --Sections 9-6-6 through 9-6-11,
23 18-3-4, 18-3-5 and 18-4-1 through 18-4-6 NMSA 1978 (being Laws
24 1977, Chapter 247, Section 6, Laws 1980, Chapter 151, Sections
25 52 through 56, Laws 1978, Chapter 164, Sections 3 and 4, Laws
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1 1949, Chapter 138, Sections 1 through 4, Laws 1977, Chapter
2 246, Section 22 and Laws 1949, Chapter 138, Section 5, as
3 amended) are repealed.

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