

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.

H  
B  
9  
2  
P  
a  
g  
e  
1

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

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

Section 2. 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 affairs.

Section 3. DEFINITIONS.--As used in the Cultural Affairs Department Act:

- A. "department" means the cultural affairs department; and
- B. "secretary" means the secretary of cultural affairs.

Section 4. DEPARTMENT CREATED.--The "cultural affairs department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

- A. administrative services division;
- B. arts division;
- C. historic preservation division;
- D. library division;
- E. Hispanic cultural division;

- F. farm and ranch heritage museum division; H  
B
- G. natural history and science museum division; g
- H. museum of space history division; 2
- I. museum services division; and P
- J. the following divisions that make up the museum of New Mexico: a
  - (1) palace of the governors state history museum division; e
  - (2) museum of fine art division;
  - (3) museum of Indian arts and culture division;
  - (4) museum of international folk art division;
  - (5) archaeological services division; and
  - (6) state monuments division. 2

Section 5. SECRETARY.--

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

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

Section 6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

B. To perform the secretary's duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary of the department, or any division of the department, except where authority conferred upon any division therein is explicitly exempted from the secretary's authority by statute.

H  
B  
9  
2  
P  
a  
g  
e

In accordance with these provisions, the secretary shall:

3

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

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

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

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

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

(6) conduct research and studies that will improve the

operations of the department and the provision of services to the citizens of the state;

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

(8) prepare an annual budget of the department;

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

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

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

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

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

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

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

H  
B  
g  
2  
P  
a  
g  
e

E. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions. A rule promulgated by the director of a division in carrying out the functions and duties of the division shall not be effective until approved by the secretary. Unless otherwise provided by statute, a rule affecting a person or agency outside the department shall not be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by him. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule, proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

5

Section 7. ORGANIZATIONAL UNITS OF THE DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

A. Those organizational units of the department and the officers of those units specified by law shall have all the powers and duties enumerated in the

specific laws involved. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, who shall retain the final decision-making authority and responsibility for the administration of any such laws.

H  
B  
g  
2  
P  
a  
g  
e

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

6

Section 8. DIVISION DIRECTORS.--Except as otherwise provided by law, the secretary shall appoint, with the approval of the governor, "directors" of divisions established within the department. The directors so appointed are exempt from the Personnel Act.

Section 9. BUREAU CHIEFS.--The secretary may establish within each division such "bureaus" as the secretary deems necessary to carry out the provisions of the Cultural Affairs Department Act. The secretary shall appoint a "chief" to be the administrative head of a bureau. The chief and all subsidiary employees of the department are covered by the Personnel Act, unless otherwise provided by law.

Section 10. ADMINISTRATIVE SERVICES DIVISION--DUTIES.--The administrative services division shall provide administrative services to the department, including:

- A. keeping all official records of the department;
- B. providing clerical services in the areas of personnel and budget preparation; and
- C. providing clerical, record-keeping and administrative support to agencies administratively attached to the department, at their request.

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

"18-2-3. LIBRARY DIVISION--CREATION--DIRECTOR.--

A. The "library division" is created within the cultural affairs  
department.

B. Subject to the authority of the secretary of cultural affairs, the  
administrative and executive head of the library division is the "state librarian". The  
state librarian shall be appointed by the secretary."

Section 12. MUSEUM SERVICES DIVISION.--The "museum services  
division" is created within the cultural affairs department. The museum services  
division shall provide support in exhibitions, statewide education services,  
publishing and other services requested by the museums or the secretary.

Section 13. MUSEUM OF FINE ART DIVISION CREATED--LOCATION--  
BOARD OF REGENTS.--

A. The "museum of fine art division" is created in the cultural affairs  
department. The museum of fine art located in Santa Fe shall be operated as a  
division of the cultural affairs department under the imprimatur of the museum of  
New Mexico. The museum of New Mexico board of regents shall exercise  
trusteeship over the museum of fine art.

B. The director of the division shall meet the following minimum  
qualifications:

(1) hold a bachelor's or higher degree in a discipline related  
to the function of the division; and

(2) have significant experience in the management and

H  
B  
  
9  
2  
P  
a  
g  
e  
  
7

operation of an organization similar to the division.

H  
B

C. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

g  
2  
P  
a  
g  
e

Section 14. PALACE OF THE GOVERNORS STATE HISTORY MUSEUM  
DIVISION CREATED--LOCATION--BOARD OF REGENTS.--

8

A. The "palace of the governors state history museum division" is created in the cultural affairs department. The palace of the governors state history museum located in Santa Fe shall be operated as a division of the cultural affairs department under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over the palace of the governors state history museum.

B. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

C. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

Section 15. MUSEUM OF INTERNATIONAL FOLK ART DIVISION  
CREATED--LOCATION--BOARD OF REGENTS.--

A. The "museum of international folk art division" is created in the



cultural affairs department. The museum of international folk art located in Santa Fe shall be operated as a division of the cultural affairs department under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over the museum of international folk art.

H  
B  
9  
2  
P  
a  
g  
e  
9

B. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

C. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

Section 16. MUSEUM OF INDIAN ARTS AND CULTURE DIVISION  
CREATED--LOCATION--BOARD OF REGENTS.--

A. The "museum of Indian arts and culture division" is created in the cultural affairs department. The museum of Indian arts and culture located in Santa Fe shall be operated as a division of the cultural affairs department under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over the museum of Indian arts and culture.

B. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

H  
B

C. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

9  
2  
P  
a  
g  
e

Section 17. STATE MONUMENTS DIVISION CREATED--BOARD OF REGENTS.--

1  
0

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

- (1) Coronado state monument;
- (2) Jemez state monument;
- (3) Fort Selden state monument;
- (4) Fort Sumner state monument;
- (5) Lincoln state monument;
- (6) el camino real international heritage center; and
- (7) The Taylor Reynolds Barela Mesilla state monument.

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

C. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

- (2) have significant experience in the management and

operation of an organization similar to the division.

D. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

Section 18. ARCHAEOLOGICAL SERVICES DIVISION CREATED--  
BOARD OF REGENTS.--

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

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

C. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

D. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents.

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

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

A. The "museum of New Mexico" is established. All properties, real or personal, now held for museum purposes and all properties, real or personal, which may be acquired for museum purposes at any time in the future shall be under the control of the museum board of regents of the museum of New Mexico.

H  
B  
g  
2  
P  
a  
g  
e

B. The museum of New Mexico consists of:

1  
2

- (1) the palace of the governors state history museum;
- (2) the museum of fine art;
- (3) the museum of Indian arts and culture;
- (4) the museum of international folk art;
- (5) archaeological services; and
- (6) the state monuments:
  - (a) Coronado state monument;
  - (b) Jemez state monument;
  - (c) Fort Selden state monument;
  - (d) Fort Sumner state monument;
  - (e) Lincoln state monument;
  - (f) el camino real international heritage center; and
  - (g) The Taylor Reynolds Barela Mesilla state

monument."

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

"18-3-8. LABORATORY OF ANTHROPOLOGY--ACCEPTANCE OF DEED AND TITLE.--The state of New Mexico accepts the deed and bill of sale and the title

of the laboratory of anthropology building and land described in the deed dated September 30, 1947 and directs that the property become part of the museum of New Mexico and be controlled and administered by the cultural affairs department."

H  
B  
g  
2  
P  
a  
g  
e  
1  
3

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

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

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

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

C. "division" means the natural history and science museum division of the cultural affairs department;

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

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

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

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

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

A. The "natural history and science museum division" is created

within the cultural affairs department. The principal facility of this division is the "New Mexico museum of natural history and science" located in Albuquerque. The site shall be held in the name of the state.

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

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

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

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

- A. exercise trusteeship over the collections of the museum;
- B. accept and hold title to all property for museum use;
- C. review annually the performance of the director and report its findings to the secretary of cultural affairs;
- D. enter into agreements or contracts with private or public organizations, agencies or individuals for the purpose of obtaining real or personal property for museum use;
- E. authorize the director to solicit and receive funds or property of any nature for the development of the museum, its collections and its programs;
- F. adopt such rules as may be necessary to carry out the provisions of this section; and
- G. establish museum policy and determine the mission and direct

H  
B  
g  
2  
P  
a  
g  
e  
1  
4

the development of the institution subject to the decision of the secretary of cultural affairs in event of conflict between the board and the cultural affairs department."

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

"18-4-6. LINCOLN MONUMENT--STATE MONUMENTS DIVISION--  
POWERS AND DUTIES.--The state monuments division of the cultural affairs department shall be entrusted with the protection and preservation of the old Lincoln county courthouse. The state monuments division shall maintain and operate the monument as a memorial and state museum of old Lincoln county, shall have power to acquire and hold real estate in the name of the state and to act in cooperation with the federal government or any of its agencies in preserving the monument and shall have power to accept gifts, grants and donations from any person, firm, corporation, agency or any group of persons for the collections of the museum or the maintenance and operation of the monument."

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

"18-5-2. DEFINITIONS.--As used in Chapter 18, Article 5 NMSA 1978:

- A. "commission" means the New Mexico arts commission;
- B. "creative arts" means the act of writing, composing or designating and executing literature, including poetry; drama; music, including opera and choral works; ballet and dance; painting; sculpturing; graphic arts; photography; crafts; architecture; and films and television;
- C. "director" means the executive head of the division;
- D. "division" means the arts division of the cultural affairs

department; and

H  
B

E. "interpretative arts" means the act of interpreting the creative arts, including designing, publishing, printing and collecting of books; the producing, directing and performing of dramas; the performing of music and the producing, directing and performing of operas and choral works; the producing, directing and performing of ballet and dance; the conservation of architecture; and the producing, directing and performing of films and television."

g  
2  
P  
a  
g  
e  
1  
6

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

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

A. The "arts division" is created within the cultural affairs department.

B. Subject to the authority of the secretary of cultural affairs, the administrative and executive head of the arts division is the "director" of the arts division. The director shall be hired by the secretary from a list of three to five names supplied by the commission."

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

"18-6-1. SHORT TITLE.--Sections 18-6-1 through 18-6-17 NMSA 1978 may be cited as the "Cultural Properties Act"."

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

"18-6-6. CULTURAL AFFAIRS DEPARTMENT--POWERS AND DUTIES RELATING TO THE CULTURAL PROPERTIES ACT.--

A. The cultural affairs department is responsible for administering,



developing and maintaining all registered cultural properties in its ownership or custody.

B. Unless other locations are deemed more appropriate by the committee, in consultation with the museum of New Mexico, because of the nature of the property involved, the cultural affairs department shall be the depository for all collections made under the provisions of the Cultural Properties Act and shall make available material from such collections to museums in and out of the state on the request of the governing bodies of those museums when, in the opinion of the department, such use is appropriate and when arrangements are made for the safe custodianship and public exhibition of the material in accordance with department rules. The museum of New Mexico shall maintain a record of the location of all such collections.

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

D. The cultural affairs department may acquire by gift, purchase or, if no other means of acquisition are available, condemnation any cultural property or interest therein sufficient to preserve such property. Cultural properties so acquired shall be administered by the department or other appropriate state agencies in accordance with Subsections A and B of this section.

E. The cultural affairs department may enter into agreements with the committee to provide assistance in carrying out the duties of the committee."

Section 29. Section 18-6-7 NMSA 1978 (being Laws 1969, Chapter 223,

Section 7, as amended) is amended to read:

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

A. The state historic preservation officer of the historic preservation  
division of the cultural affairs department shall, with the concurrence of the  
committee, prepare a long-range plan for the preservation of cultural properties,  
including but not limited to the identification, acquisition, restoration and protection  
of historic and cultural properties and the maintenance and expansion of statewide  
historic and prehistoric site data bases.

B. The historic preservation division shall administer funds that are  
received, controlled and disbursed for the purposes of the Cultural Properties Act,  
unless such funds are specifically granted or appropriated to another agency.

C. Consistent with the Cultural Properties Act, the historic  
preservation division shall cooperate in all matters with the committee and other  
divisions of the cultural affairs department."

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

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

A. The "historic preservation division" is created within the cultural  
affairs department.

B. The state historic preservation officer shall be the director of the  
division and shall be hired by the secretary of cultural affairs with the consent of the

H  
B  
9  
2  
P  
a  
g  
e  
1  
8

governor. The position's qualifications shall be consistent with but not limited to the following:

(1) a graduate degree in American history, anthropology, architecture or historic preservation;

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

(3) a substantial contribution through research and publication to the body of scholarly knowledge in the field of American history, anthropology, architecture or historic preservation or any combination of these.

C. The state historic preservation officer shall administer the Cultural Properties Act, including but not limited to being administrative head of all Cultural Properties Act functions assigned to the historic preservation division by law or executive order. In addition, the state historic preservation officer shall coordinate all duties performed by, and cooperate with, the committee, the secretary of cultural affairs and any other entities, public or private, involved with cultural properties.

D. The state historic preservation officer, in conjunction with the secretary of cultural affairs:

- (1) shall provide staff to the committee;
- (2) shall maintain the state register of cultural properties;
- (3) may fund historic site surveys and may fund restorations;
- (4) shall administer historic preservation tax benefit programs; and
- (5) shall review state undertakings to determine their effect

H  
B  
9  
2  
P  
a  
g  
e  
1  
9

upon significant historic properties."

H  
B

Section 31. Section 18-6-15 NMSA 1978 (being Laws 1969, Chapter 223, Section 13, as amended) is amended to read:

g  
2  
P

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

a  
g  
e  
  
2  
0

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

"18-6-16. PREPARATION AND SALE OF CULTURAL PROPERTIES PUBLICATIONS--REVOLVING FUND--REPORT.--The historic preservation division shall encourage and promote publications relating to cultural properties that have been prepared pursuant to the Cultural Properties Act. The historic preservation division may prepare or contract for the preparation of such publications on the condition that it receives from the sale of the publications the amount expended plus interest on that amount compounded annually at the prime lending rate quoted in the Wall Street Journal on the effective date of the contract until the expended amount is reimbursed in full to the division. All receipts from such sales shall go into a special revolving fund, which is hereby established. The historic preservation division shall adopt rules establishing guidelines and fiscal controls over the use of the revolving fund."

Section 33. Section 18-6-20 NMSA 1978 (being Laws 1987, Chapter 7,

Section 3) is amended to read:

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

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

B. "division" means the historic preservation division of the cultural affairs department;

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

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

E. "registered cultural property" means a site, structure, building or object entered in the state register of cultural properties or the national register of historic places or both."

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

"18-6A-1. SHORT TITLE.-- Chapter 18, Article 6A NMSA 1978 may be cited as the "Cultural Properties Protection Act"."

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

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

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

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

C. "division" means the historic preservation division of the cultural affairs department;

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

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

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

G. "preservation" means sustaining the existing form, integrity and material of a cultural property or the existing form and vegetative cover of a cultural property and may include protective maintenance or stabilization where necessary in the case of archaeological sites;

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

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

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

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

L. "state agency" means a department, agency, institution or political

subdivision of the state; and

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

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

"18-7-1. MUSEUM OF SPACE HISTORY DIVISION--CREATION.-- The "museum of space history division" is created within the cultural affairs department. The principal facility of the division is the "museum of space history" located in Alamogordo. The site shall be held in the name of the state."

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

"18-7-3. COMMISSION--POWERS--DUTIES.--The museum of space history commission shall construct, maintain and operate the museum of space history for the benefit of the people of New Mexico, the nation and the world as an educational project interpreting man's conquest of space. The director of the division, under the supervision of the commission, shall:

- A. collect and preserve objects relating to the history of rocketry, space flight, astronomy and related fields;
- B. conduct research programs necessary to document the historical, scientific and technological advances of rocketry, space flight, astronomy and related fields;
- C. disseminate the results of division research efforts through

H  
B  
g  
2  
P  
a  
g  
e  
2  
3

- exhibits, public programs, publications and other methods deemed appropriate by the commission;
- D. establish educational programs relating to space;
- E. purchase supplies and necessary equipment and tools;
- F. accept for the museum any federal matching funds or grants available for this project and related programs;
- G. accept donations and bequests from individuals and entities for the museum and related programs;
- H. acquire real and personal property in the name of the state for the museum;
- I. employ and discharge personnel necessary for the operation of the museum;
- J. prepare budgets for operation and capital improvements;
- K. assume other duties and responsibilities as deemed necessary by the commission;
- L. assume responsibility for new and related facilities as required; and
- M. subject to the provisions of Section 18-7-3.1 NMSA 1978, impose admission fees to the museum facilities and programs."

H  
B  
9  
2  
P  
a  
g  
e  
2  
4

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

"18-7-4. DIRECTOR--EMPLOYMENT.--The director of the museum of space history division shall be hired by the secretary of cultural affairs."



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

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

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

B. "division" means the historic preservation division of the cultural  
affairs department; and

C. "significant prehistoric or historic sites" means properties listed in  
the state register of cultural properties or national register of historic places."

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

"18-11-1. SHORT TITLE.--Chapter 18, Article 11 NMSA 1978 may be cited  
as the "Farm and Ranch Heritage Museum Act"."

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

"18-11-2. DECLARATION AND PURPOSE OF ACT.--The legislature  
declares that the farming and ranching industry of the state has produced a unique  
common heritage of which all persons should receive knowledge and benefit. The  
purpose of the Farm and Ranch Heritage Museum Act is to create a farm and ranch  
heritage museum, which shall collect, preserve, study and display materials  
representative of the farming and ranching of the state and region and develop and

maintain exhibits and programs of an educational nature for the benefit of the citizens of New Mexico and visitors to the state."

Section 42. Section 18-11-3 NMSA 1978 (being Laws 1991, Chapter 48, Section 3) is amended to read:

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

- A. "board" means the board of the farm and ranch heritage museum;
- B. "director" means the director of the division;
- C. "division" means the farm and ranch heritage museum division of the cultural affairs department;
- D. "farm and ranch" means that which pertains to the field of agriculture and the various industries that affect agriculture, including but not limited to agronomy, livestock management, veterinary medicine, agricultural nutrition and other related agricultural businesses and sciences; and
- E. "museum" means the principal facility of the division, including all real and personal property of the division."

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

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

- A. The "farm and ranch heritage museum division" is created within the cultural affairs department.
- B. The "farm and ranch heritage museum" shall be located on the campus of New Mexico state university in Dona Ana county.
- C. All property, real or personal, now held or subsequently acquired

for the operation of the museum shall be under the control and authority of the cultural affairs department.

D. Funds or other property received by gift, endowment or legacy shall remain under the control of the cultural affairs department and shall, upon acceptance, be employed for the purpose specified."

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

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

A. The "board of the farm and ranch heritage museum" is created.

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

(1) eight members shall be appointed by the governor with the advice and consent of the senate. Five of those eight members shall be farmers or ranchers and three members shall be from the general public. The five farmer and rancher members of the original board shall be appointed from a list of eight names submitted by the board of directors of the New Mexico farm and ranch heritage institute foundation, incorporated, from a list of persons recommended by farm and ranch organizations. When a vacancy occurs in any of the five farmer and rancher positions, two names shall be submitted to the governor by the board for each vacancy from a list of persons recommended by farm and ranch organizations.

No more than four of the eight appointed members shall be from the same political party. In making these appointments, due consideration shall be given to the distribution of places of residence and to individual interests and backgrounds in farming and ranching. Initially, two members shall be appointed for terms of two

H  
B

9  
2  
P  
a  
g  
e

2  
7

years, three members shall be appointed for terms of three years and three members shall be appointed for terms of four years. Thereafter, members of the board shall be appointed for terms of four years or less so that the staggered expiration dates are maintained;

(2) the following shall have permanent seats on the board:

(a) the director of the New Mexico department of agriculture or the director's designee;

(b) the dean of the college of agriculture and home economics of New Mexico state university or the dean's designee; and

(c) the secretary of cultural affairs or the secretary's designee; and

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

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

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

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

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

A. establish museum policy and determine the mission and direct the development of the museum subject to the approval of the secretary of cultural affairs;

H  
B  
g  
2  
P  
a  
g  
e  
2  
8

- B. adopt rules that may be necessary to carry out the provisions of this section;
- C. exercise trusteeship over the collections of the museum;
- D. accept and hold title to all property for museum use;
- E. approve contracts or agreements that the division may enter into with private or public organizations, institutions, agencies or individuals to carry out the purposes of the Farm and Ranch Heritage Museum Act;
- F. authorize the director to solicit and receive funds or property of any nature for the development of the museum, its collections and its programs; and
- G. review annually the performance of the director and report its findings to the secretary of cultural affairs."

H  
B  
9  
2  
P  
a  
g  
e  
2  
9

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

"18-11-9. DIRECTOR--POWERS AND DUTIES.--Consistent with the policies agreed to by the board and the secretary of cultural affairs, the director:

- A. shall be responsible for the administration and operation of the museum in accordance with the applicable statutes and rules;
- B. shall develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of schools of the state;
- C. shall acquire, as authorized by the board, in the name of the state, through donation or other means, both real and personal property, including artifacts, collections and related materials appropriate to a farm and ranch museum and shall direct field and laboratory research as is appropriate to render the collections beneficial to the scientific community and to the public;

- D. may solicit and receive funds or property of any nature, including federal funds and public and private grants, for the development of the museum, its collections or its programs;
- E. may enter into contracts with public or private organizations, individuals or agencies for the performance of services related to the location, preservation, development, study or salvage of historical agricultural sites or materials;
- F. shall cooperate with institutions of higher learning and other agencies and political subdivisions of municipal, state and federal governments to establish, maintain and extend the programs of the museum;
- G. shall employ and discharge personnel necessary for the operation of the museum in accordance with the provisions set forth in the Personnel Act;
- H. shall assume responsibility for new and related facilities as required by the division;
- I. may, as authorized by the board, lend collections or materials to qualified institutions and agencies for purposes of exhibition and study and borrow collections or materials from other institutions and agencies for like purposes;
- J. shall impose and collect admission fees and conduct such retail sales as are normal for the operation of the museum;
- K. may publish such journals, books, reports and other materials as are appropriate to the operation of the museum; and
- L. shall perform such other appropriate duties as may be delegated by the board or as may be provided by law."

H  
B  
g  
2  
P  
a  
g  
e  
3  
0

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

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

- A. "board" means the board of directors of the center;
- B. "center" means the national Hispanic cultural center;
- C. "division" means the Hispanic cultural division of the cultural  
affairs department; and
- D. "director" means the director of the division."

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

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

- A. The "Hispanic cultural division" is created within the cultural  
affairs department. The principal facility of this division shall be known as the  
"national Hispanic cultural center".
- B. All property, real or personal, now held or subsequently acquired  
for the operation of the center shall be under the control and authority of the board.
- C. Funds or other property received by gift, endowment or legacy  
shall remain under the control of the board and shall, upon acceptance, be  
employed for the purpose specified."

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

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

- A. exercise trusteeship over the collections of the center;

- B. accept and hold title to all property for the center's use;
- C. review annually the performance of the director and report its findings to the secretary of cultural affairs;
- D. enter into agreements or contracts with private or public organizations, agencies or individuals for the purpose of obtaining real or personal property for the center's use;
- E. authorize the director to solicit and receive funds or property of any nature for the development of the center, its collections and its programs;
- F. adopt such rules as may be necessary to carry out the provisions of the National Hispanic Cultural Center Act; and
- G. establish policy, determine the mission and direct the development of the center."

H  
B  
g  
2  
P  
a  
g  
e  
3  
2

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

"18-12-7. DIRECTOR--POWERS AND DUTIES.--Subject to the policies agreed to by the board, the director:

- A. shall be responsible for the operation of the center, in accordance with all appropriate statutes and rules;
- B. shall develop exhibits and programs displaying Hispanic culture, arts and humanities for the benefit of the public and with particular concern for the interests of the schools of the state;
- C. shall acquire by donation or other means of acquisition collections and related materials appropriate to an Hispanic cultural center and shall direct research as is appropriate to render the collections of benefit to the public;



D. shall employ such professional staff and other employees as are necessary to the operation of the center in accordance with the provisions of the Personnel Act;

H  
B  
9  
2  
P

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

a  
g  
e

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

3  
3

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

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

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

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

K. shall perform other appropriate duties as may be delegated by the governor, the secretary of cultural affairs or the board or as may be provided by law."

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

A. The transfer of functions, personnel, appropriations, money,

records, equipment, supplies, other property and contractual obligations of the office  
of cultural affairs to the cultural affairs department pursuant to executive order  
issued in accordance with Laws 2003, Chapter 403 is approved.

H  
B  
g  
2  
P  
a  
g  
e

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

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

3  
4

Section 53. REPEAL.--Sections 9-6-6 through 9-6-11, 18-3-4, 18-3-5 and  
18-4-1 through 18-4-5 NMSA 1978 (being Laws 1977, Chapter 247, Section 6, Laws  
1980, Chapter 151, Sections 52 through 56, Laws 1978, Chapter 164, Sections 3  
and 4, Laws 1949, Chapter 138, Sections 1 through 4 and Laws 1977, Chapter 246,  
Section 22, as amended) are repealed.