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HOUSE BILL 68

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Conrad D. James

AN ACT

RELATING TO CULTURAL AFFAIRS; ENACTING THE AFRICAN AMERICAN CULTURAL CENTER ACT; CREATING THE AFRICAN AMERICAN CULTURAL AFFAIRS DIVISION WITHIN THE CULTURAL AFFAIRS DEPARTMENT; PROVIDING FOR TRANSFERS OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY AND PROPERTY; REAUTHORIZING AND REAPPROPRIATING BALANCES, EXTENDING EXPENDITURE PERIODS AND CHANGING AGENCIES ON PRIOR APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "African American Cultural Center Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the African American Cultural Center Act:

A. "board" means the board of directors of the

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1 center;

2 B. "center" means the African American performing
3 arts center;

4 C. "director" means the director of the division;

5 D. "division" means the African American cultural
6 affairs division of the cultural affairs department; and

7 E. "secretary" means the secretary of cultural
8 affairs.

9 SECTION 3. [NEW MATERIAL] AFRICAN AMERICAN CULTURAL
10 AFFAIRS DIVISION--CREATION--PROPERTY.--

11 A. The "African American cultural affairs division"
12 is created within the cultural affairs department. A principal
13 facility of the division shall be known as the "African
14 American performing arts center".

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

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

22 SECTION 4. [NEW MATERIAL] BOARD OF DIRECTORS--CREATED--
23 APPOINTMENT--TERMS--OFFICERS.--

24 A. The "board of directors of the African American
25 performing arts center" is created. The board shall consist of

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1 fifteen residents of New Mexico appointed by the governor with
2 the advice and consent of the senate. Two of the appointees
3 shall be employees of state institutions of higher education or
4 appropriate state agencies. In making the appointments, the
5 governor shall give due consideration to:

6 (1) the ethnic, economic and geographic
7 diversity of the state;

8 (2) individuals who have demonstrated an
9 awareness of and support for traditional and contemporary
10 African American culture, arts and humanities, including a
11 strong knowledge of New Mexico's African American history; and

12 (3) individuals who are knowledgeable in the
13 areas of African American performing and visual arts and oral
14 traditions; genealogy; family issues; education; business; or
15 administration.

16 B. Of the initial appointees, five members shall be
17 appointed for four-year terms, five members shall be appointed
18 for three-year terms and five members shall be appointed for
19 two-year terms. All subsequent members shall be appointed for
20 four-year terms.

21 C. A majority of the board members currently
22 serving shall constitute a quorum at any meeting or hearing.

23 D. A member failing to attend three consecutive
24 meetings after receiving proper notice shall be recommended for
25 removal by the governor. The governor may also remove any

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1 member of the board for neglect of any duty required by law,
2 for incompetency, for unprofessional conduct or for violating
3 any provision of the African American Cultural Center Act. If
4 a vacancy occurs on the board, the governor shall appoint
5 another member to complete the unexpired term.

6 E. The director shall be an ex-officio nonvoting
7 member of the board.

8 F. The governor shall designate the president of
9 the board, who shall serve in that capacity at the pleasure of
10 the governor.

11 SECTION 5. [NEW MATERIAL] BOARD--POWERS AND DUTIES.--The
12 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 director
18 and report its findings to the secretary;

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

23 E. authorize the director to solicit and receive
24 funds or property of any nature for the development of the
25 center, its collections and its programs;

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1 F. adopt such rules as may be necessary to carry
2 out the provisions of the African American Cultural Center Act;
3 and

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

6 SECTION 6. [NEW MATERIAL] DIRECTOR--APPOINTMENT--
7 QUALIFICATIONS.--

8 A. The director shall be appointed by the
9 secretary, with the approval of the governor, from a list of
10 qualified finalists provided by the board.

11 B. Subject to the authority of the secretary, the
12 director shall be the administrative and executive officer of
13 the division. The director shall be exempt from the provisions
14 of the Personnel Act.

15 SECTION 7. [NEW MATERIAL] DIRECTOR--POWERS AND
16 DUTIES.--Subject to the policies agreed to by the board, the
17 director:

18 A. shall be responsible for the administration of
19 the division and for the operation of the center, in accordance
20 with all appropriate statutes and regulations;

21 B. shall develop exhibits and programs displaying
22 African American culture, arts and humanities for the benefit
23 of the public and with particular concern for the interests of
24 the schools in the state;

25 C. shall acquire, by donation or other means of

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1 acquisition, collections and related materials appropriate to
2 an African American performing arts center and shall direct
3 research as is appropriate to render the collections beneficial
4 to the public;

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

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

10 F. may enter into contracts with public or private
11 organizations or agencies or with individuals for the
12 performance of services related to the location, preservation,
13 development, study or salvage of African American cultural
14 materials;

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

19 H. may impose and collect admission fees and
20 conduct retail sales as are normal for the operation of the
21 center;

22 I. shall perform other appropriate duties as may be
23 delegated by the governor, by the secretary or the secretary's
24 successor or by the board, or as may be provided by law;

25 J. may publish journals, books, reports and other

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1 materials as are appropriate to the operation of the center;
2 and

3 K. may, as authorized by the board, lend collection
4 materials to qualified institutions and agencies for purposes
5 of exhibition and study and borrow collection materials from
6 other institutions and agencies for the same purpose.

7 SECTION 8. [NEW MATERIAL] BOARD--COMPENSATION.--The
8 members of the board are entitled to receive per diem and
9 mileage as provided in the Per Diem and Mileage Act and shall
10 receive no other compensation, perquisite or allowance.

11 SECTION 9. Section 9-4A-4 NMSA 1978 (being Laws 2004,
12 Chapter 25, Section 4, as amended) is amended to read:

13 "9-4A-4. DEPARTMENT CREATED.--The "cultural affairs
14 department" is created in the executive branch. The department
15 is a cabinet department and includes the following divisions:

16 A. the administrative services division;

17 B. the African American cultural affairs division;

18 [~~B.~~] C. the arts division;

19 [~~C.~~] D. the historic preservation division;

20 [~~D.~~] E. the library division;

21 [~~E.~~] F. the Hispanic cultural division;

22 [~~F.~~] G. the farm and ranch heritage museum

23 division;

24 [~~G.~~] H. the natural history and science museum

25 division;

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- 1 [~~H.~~] I. the museum of space history division;
2 [~~F.~~] J. the museum resources division;
3 [~~J.~~] K. the veterans museum division; and
4 [~~K.~~] L. the following divisions that make up the
5 museum of New Mexico:
6 (1) the palace of the governors state history
7 museum division;
8 (2) the New Mexico museum of art division;
9 (3) the museum of Indian arts and culture
10 division;
11 (4) the museum of international folk art
12 division;
13 (5) the archaeological services division; and
14 (6) the state monuments division."

15 **SECTION 10. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,**
16 **PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On June 30, 2012:**

17 A. all personnel, appropriations, money, records,
18 equipment, supplies and other property of the state fair
19 commission and the New Mexico state fair specific to the
20 African American performing arts center at the New Mexico state
21 fairgrounds in Albuquerque in Bernalillo county shall be
22 transferred to the cultural affairs department; and

23 B. all contracts of the state fair commission and
24 the New Mexico state fair relating to the African American
25 performing arts center at the New Mexico state fairgrounds in

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1 Albuquerque in Bernalillo county shall be binding and effective
2 on the cultural affairs department.

3 SECTION 11. NEW MEXICO STATE FAIR AFRICAN AMERICAN
4 PERFORMING ARTS CENTER ADDITION--CHANGE AGENCY--EXTEND
5 TIME--SEVERANCE TAX BONDS.--

6 A. The unexpended balance of the appropriation to
7 the state fair commission in Subsection 1 of Section 16 of
8 Chapter 92 of Laws 2008 for an addition to the African American
9 performing arts center and exhibit hall at the New Mexico state
10 fairgrounds in Albuquerque in Bernalillo county is appropriated
11 to the cultural affairs department for that purpose. The time
12 of expenditure is extended through fiscal year 2014. The
13 unexpended balance from the proceeds of the severance tax bonds
14 issued shall revert to the severance tax bonding fund at the
15 end of fiscal year 2014.

16 B. For the purpose of this section, "unexpended
17 balance" means the remainder of an appropriation after
18 reserving for unpaid costs and expenses covered by binding
19 written obligations to third parties.

20 SECTION 12. NEW MEXICO STATE FAIR AFRICAN AMERICAN
21 PERFORMING ARTS CENTER GROUNDS--CHANGE AGENCY--EXTEND
22 TIME--GENERAL FUND.--

23 A. The unexpended balance of the appropriation to
24 the state fair commission in Laws 2008, Chapter 92, Section 49
25 to plan, design and landscape the grounds at the African

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1 American performing arts center at the New Mexico state
2 fairgrounds in Albuquerque in Bernalillo county is appropriated
3 to the cultural affairs department for that purpose. The time
4 of expenditure is extended through fiscal year 2014. The
5 unexpended balance of the appropriation shall revert to the
6 general fund at the end of fiscal year 2014.

7 B. For the purpose of this section, "unexpended
8 balance" means the remainder of an appropriation after
9 reserving for unpaid costs and expenses covered by binding
10 written obligations to third parties.

11 SECTION 13. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is June 30, 2012.