

HOUSE BILL 157

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

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; ENACTING THE TOURISM AND CULTURAL AFFAIRS DEPARTMENT ACT; COMBINING THE TOURISM AND CULTURAL AFFAIRS DEPARTMENTS; ENACTING THE AFRICAN AMERICAN CULTURAL CENTER ACT; CREATING THE AFRICAN AMERICAN CULTURAL DIVISION WITHIN THE TOURISM AND CULTURAL AFFAIRS DEPARTMENT; REPEALING THE NEW MEXICO FILM MUSEUM ACT; REPEALING THE FORT STANTON DEVELOPMENT COMMISSION AND THE FORT STANTON DEVELOPMENT FUND; PROVIDING FOR THE TRANSFERS OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; REAUTHORIZING AND REAPPROPRIATING BALANCES, EXTENDING EXPENDITURE PERIODS AND CHANGING AGENCIES ON PRIOR APPROPRIATIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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1 SECTION 1. Section 3-60C-3 NMSA 1978 (being Laws 2007,
2 Chapter 103, Section 3, as amended) is amended to read:

3 "3-60C-3. DEFINITIONS.--As used in the Main Street
4 Revolving Loan Act:

5 A. "committee" means the main street revolving loan
6 committee;

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

9 C. "eligible property" means a site, structure,
10 building or object that is subject to the Main Street Act or
11 otherwise found pursuant to rule of the committee to merit
12 preservation pursuant to the Main Street Revolving Loan Act;

13 D. "fund" means the main street revolving loan
14 fund;

15 E. "lending institution" means a bank, savings and
16 loan association, credit union or nonprofit organization with
17 lending programs as part of its bylaws; and

18 F. "property owner" means the sole owner, joint
19 owner, owner in partnership or an owner of a leasehold interest
20 with a term of five years or longer of an eligible property."

21 SECTION 2. Section 4-36-2 NMSA 1978 (being Laws 1965,
22 Chapter 87, Section 3, as amended) is amended to read:

23 "4-36-2. COUNTY LIBRARIES--ESTABLISHMENT--CONTRACT
24 SERVICES--GIFTS AND BEQUESTS.--

25 A. A county may establish and maintain a free

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1 public library under proper regulation and may receive, hold
2 and dispose of a gift, donation, devise or bequest that is made
3 to the county for the purpose of establishing, increasing or
4 improving the library. The governing body may apply the use,
5 profit, proceeds, interest and rents accruing from such
6 property in any manner that will best improve the library and
7 its use.

8 B. A county establishing a public library may enter
9 into contracts and joint powers agreements with other counties,
10 municipalities, local school boards, post-secondary educational
11 institutions and the library division of the [~~office of~~]
12 tourism and cultural affairs department for the furnishing of
13 regional library services."

14 SECTION 3. Section 7-1-6.51 NMSA 1978 (being Laws 2005,
15 Chapter 351, Section 1) is amended to read:

16 "7-1-6.51. DISTRIBUTION--MUNICIPAL EVENT CENTER
17 SURCHARGE.--

18 A. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made to the public project revolving fund
20 administered by the New Mexico finance authority in an amount
21 equal to seventy-five percent of the amount of event center
22 surcharge proceeds transferred to the tax administration
23 suspense fund pursuant to the Municipal Event Center Funding
24 Act.

25 B. A distribution pursuant to Section 7-1-6.1 NMSA
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1 1978 shall be made to the energy, minerals and natural
2 resources department in an amount equal to twenty-four percent
3 of the amount of event center surcharge proceeds transferred to
4 the tax administration suspense fund pursuant to the Municipal
5 Event Center Funding Act.

6 C. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the tourism and cultural affairs
8 department in an amount equal to one percent of the amount of
9 event center surcharge proceeds transferred to the tax
10 administration suspense fund pursuant to the Municipal Event
11 Center Funding Act."

12 SECTION 4. Section 7-2-18.2 NMSA 1978 (being Laws 1984,
13 Chapter 34, Section 1, as amended) is amended to read:

14 "7-2-18.2. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--
15 REFUND.--

16 A. Tax credits for the preservation of cultural
17 property may be claimed as follows:

18 (1) to encourage the restoration,
19 rehabilitation and preservation of cultural properties, a
20 taxpayer who files an individual New Mexico income tax return
21 and who is not a dependent of another individual and who is the
22 owner of a cultural property listed on the official New Mexico
23 register of cultural properties, with the taxpayer's consent,
24 may claim a credit not to exceed a maximum aggregate of twenty-
25 five thousand dollars (\$25,000) in an amount equal to one-half

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1 of the cost of restoration, rehabilitation or preservation of a
2 cultural property listed on the official New Mexico register;
3 or

4 (2) if a cultural property, whose owner may
5 otherwise claim the credit set forth in Paragraph (1) of this
6 subsection is also located within an arts and cultural district
7 certified by the state or a municipality pursuant to the Arts
8 and Cultural District Act, the owner of that cultural property
9 may claim a credit not to exceed fifty thousand dollars
10 (\$50,000), including any credit claimed pursuant to Paragraph
11 (1) of this subsection, in an amount equal to one-half of the
12 cost of restoration, rehabilitation or preservation of the
13 cultural property.

14 B. The taxpayer may claim the credit if:

15 (1) the taxpayer submitted a plan and
16 specifications for restoration, rehabilitation or preservation
17 to the committee and received approval from the committee for
18 the plan and specifications prior to commencement of the
19 restoration, rehabilitation or preservation;

20 (2) the taxpayer received certification from
21 the committee after completing the restoration, rehabilitation
22 or preservation, or committee-approved phase, that it conformed
23 to the plan and specifications and preserved and maintained
24 those qualities of the property that made it eligible for
25 inclusion in the official register; and

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1 (3) the project is completed within twenty-
2 four months of the date the project is approved by the
3 committee in accordance with Paragraph (1) of this subsection.

4 C. A taxpayer may claim the credit provided in this
5 section for each taxable year in which restoration,
6 rehabilitation or preservation is carried out. Except as
7 provided in Subsection F of this section, claims for the credit
8 provided in this section shall be limited to three consecutive
9 years, and the maximum aggregate credit allowable shall not
10 exceed twenty-five thousand dollars (\$25,000) if governed by
11 Paragraph (1) of Subsection A of this section, or fifty
12 thousand dollars (\$50,000) if governed by Paragraph (2) of
13 Subsection A of this section, for any single restoration,
14 rehabilitation or preservation project for any cultural
15 property listed on the official New Mexico register certified
16 by the committee.

17 D. A husband and wife who file separate returns for
18 a taxable year in which they could have filed a joint return
19 may each claim only one-half of the credit that would have been
20 allowed on a joint return.

21 E. A taxpayer who otherwise qualifies and claims a
22 credit on a restoration, rehabilitation or preservation project
23 on property owned by a partnership of which the taxpayer is a
24 member may claim a credit only in proportion to the taxpayer's
25 interest in the partnership. The total credit claimed by all

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1 members of the partnership shall not exceed twenty-five
2 thousand dollars (\$25,000) in the aggregate if governed by
3 Paragraph (1) of Subsection A of this section, or fifty
4 thousand dollars (\$50,000) in the aggregate if governed by
5 Paragraph (2) of Subsection A of this section, for any single
6 restoration, rehabilitation or preservation project for any
7 cultural property listed on the official New Mexico register
8 certified by the committee.

9 F. The credit provided in this section may only be
10 deducted from the taxpayer's income tax liability. Any portion
11 of the maximum tax credit provided by this section that remains
12 unused at the end of the taxpayer's taxable year may be carried
13 forward for four consecutive years; provided, however, the
14 total tax credits claimed under this section shall not exceed
15 twenty-five thousand dollars (\$25,000) if governed by Paragraph
16 (1) of Subsection A of this section, or fifty thousand dollars
17 (\$50,000) if governed by Paragraph (2) of Subsection A of this
18 section, for any single restoration, preservation or
19 rehabilitation project for any cultural property listed on the
20 official New Mexico register.

21 G. The historic preservation division shall
22 promulgate regulations for the implementation of Subsection B
23 of this section.

24 H. As used in this section:

25 (1) "committee" means the cultural properties

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1 review committee [~~created in Section 18-6-4 NMSA 1978~~]; and

2 (2) "historic preservation division" means the
3 historic preservation division of the tourism and cultural
4 affairs department [~~created in Section 18-6-8 NMSA 1978~~]."

5 SECTION 5. Section 9-4A-1 NMSA 1978 (being Laws 2004,
6 Chapter 25, Section 1, as amended) is amended to read:

7 "9-4A-1. SHORT TITLE.--Chapter 9, Article 4A NMSA 1978
8 may be cited as the "Tourism and Cultural Affairs Department
9 Act"."

10 SECTION 6. Section 9-4A-2 NMSA 1978 (being Laws 2004,
11 Chapter 25, Section 2) is amended to read:

12 "9-4A-2. PURPOSE.--The purpose of the Tourism and
13 Cultural Affairs Department Act is to create a single, unified
14 department to administer all laws and exercise all functions
15 formerly administered and executed by the [~~office of~~] tourism
16 department and the cultural affairs department."

17 SECTION 7. Section 9-4A-3 NMSA 1978 (being Laws 2004,
18 Chapter 25, Section 3) is amended to read:

19 "9-4A-3. DEFINITIONS.--As used in the Tourism and
20 Cultural Affairs Department Act:

21 A. "department" means the tourism and cultural
22 affairs department; and

23 B. "secretary" means the secretary of tourism and
24 cultural affairs."

25 SECTION 8. Section 9-4A-4 NMSA 1978 (being Laws 2004,

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1 Chapter 25, Section 4, as amended) is amended to read:

2 "9-4A-4. DEPARTMENT CREATED.--

3 A. The "tourism and cultural affairs department" is
4 created in the executive branch. The department is a cabinet
5 department and includes the following divisions:

6 [~~A.~~] (1) the administrative services division;

7 [~~B.~~] (2) the arts division;

8 [~~C.~~] (3) the historic preservation division;

9 [~~D.~~] (4) the library division;

10 [~~E.~~] (5) the Hispanic cultural division;

11 (6) the African American cultural division;

12 [~~F.~~] (7) the farm and ranch heritage museum
13 division;

14 [~~G.~~] (8) the natural history and science
15 museum division;

16 [~~H.~~] (9) the museum of space history division;

17 [~~I.~~] (10) the museum resources division;

18 [~~J.~~] (11) the veterans museum division; [~~and~~

19 ~~K.~~] (12) the following divisions that make up
20 the museum of New Mexico:

21 [~~(1)~~] (a) the palace of the governors
22 state history museum division;

23 [~~(2)~~] (b) the New Mexico museum of art
24 division;

25 [~~(3)~~] (c) the museum of Indian arts and

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1 culture division;

2 [~~(4)~~] (d) the museum of international
3 folk art division;

4 [~~(5)~~] (e) the archaeological services
5 division; and

6 [~~(6)~~] (f) the state monuments division;

7 (13) the marketing and promotion division;

8 (14) the New Mexico magazine division; and

9 (15) the tourism development division.

10 B. The New Mexico state fair and the intertribal
11 ceremonial office are administratively attached to the
12 department."

13 SECTION 9. Section 9-4A-5 NMSA 1978 (being Laws 2004,
14 Chapter 25, Section 5) is amended to read:

15 "9-4A-5. SECRETARY.--

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

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

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1 SECTION 10. Section 9-4A-6 NMSA 1978 (being Laws 2004,
2 Chapter 25, Section 6, as amended) is amended to read:

3 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

9 B. To perform the secretary's duties, the secretary
10 has every power expressly enumerated in the laws, whether
11 granted to the secretary or the department, or any division of
12 the department, except where authority conferred upon any
13 division therein is explicitly exempted from the secretary's
14 authority by statute. In accordance with these provisions, the
15 secretary shall:

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

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

23 (3) organize the department into those
24 organizational units the secretary deems will enable it to
25 function most efficiently, subject to any provisions of law

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1 requiring or establishing specific organizational units;

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

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

12 (6) conduct research and studies that will
13 improve the operations of the department and the provision of
14 services to the citizens of the state;

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

20 (8) prepare an annual budget of the
21 department;

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

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

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

3 (c) resolve by agreement the manner and
4 extent to which the department shall provide budgeting,
5 recordkeeping and related clerical assistance to
6 administratively attached agencies; and

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

12 C. The secretary may:

13 (1) apply for and receive, with the
14 governor's approval, in the name of the department, any public
15 or private funds, including United States government funds,
16 available to the department to carry out its programs, duties
17 or services; and

18 (2) acquire by purchase, gift, endowment or
19 legacy real or personal property and hold title to that
20 property in the name of the department for the purpose of
21 promoting, encouraging and supporting the performing arts in
22 New Mexico. Property acquired pursuant to this paragraph shall
23 be held under the control and authority of the [~~cultural~~
24 ~~affairs~~] department.

25 D. Where functions of departments overlap, or a

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1 function assigned to one department could better be performed
2 by another department, a secretary may recommend appropriate
3 legislation to the next session of the legislature for its
4 approval.

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

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1 accordance with the State Rules Act."

2 SECTION 11. Section 9-4A-11 NMSA 1978 (being Laws 1949,
3 Chapter 74, Section 1, as amended) is amended to read:

4 "9-4A-11. LABORATORY OF ANTHROPOLOGY--ACCEPTANCE OF
5 DEED AND TITLE.--The state of New Mexico accepts the deed and
6 bill of sale and the title of the laboratory of anthropology
7 building and land described in the deed dated September 30,
8 1947 and directs that the property become part of the museum
9 of New Mexico and be controlled and administered by the
10 [~~cultural affairs~~] department."

11 SECTION 12. Section 9-4A-14 NMSA 1978 (being Laws 2004,
12 Chapter 25, Section 14) is amended to read:

13 "9-4A-14. PALACE OF THE GOVERNORS STATE HISTORY MUSEUM
14 DIVISION CREATED--LOCATION--BOARD OF REGENTS.--

15 A. The "palace of the governors state history
16 museum division" is created in the [~~cultural affairs~~]
17 department. The palace of the governors state history museum
18 located in Santa Fe shall be operated as a division of the
19 [~~cultural affairs~~] department under the imprimatur of the
20 museum of New Mexico. The museum of New Mexico board of
21 regents shall exercise trusteeship over the palace of the
22 governors state history museum.

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

25 (1) hold a bachelor's or higher degree in a

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1 discipline related to the function of the division; and

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

5 C. The director shall be appointed by the
6 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
7 fewer than three names provided by the museum of New Mexico
8 board of regents."

9 SECTION 13. Section 9-4A-15 NMSA 1978 (being Laws 2004,
10 Chapter 25, Section 15) is amended to read:

11 "9-4A-15. MUSEUM OF INTERNATIONAL FOLK ART DIVISION
12 CREATED--LOCATION--BOARD OF REGENTS.--

13 A. The "museum of international folk art
14 division" is created in the [~~cultural affairs~~] department.
15 The museum of international folk art located in Santa Fe
16 shall be operated as a division of the [~~cultural affairs~~]
17 department under the imprimatur of the museum of New Mexico.
18 The museum of New Mexico board of regents shall exercise
19 trusteeship over the museum of international folk art.

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

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

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

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1 division.

2 C. The director shall be appointed by the
3 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
4 fewer than three names provided by the museum of New Mexico
5 board of regents."

6 SECTION 14. Section 9-4A-16 NMSA 1978 (being Laws 2004,
7 Chapter 25, Section 16) is amended to read:

8 "9-4A-16. MUSEUM OF INDIAN ARTS AND CULTURE DIVISION
9 CREATED--LOCATION--BOARD OF REGENTS.--

10 A. The "museum of Indian arts and culture
11 division" is created in the [~~cultural affairs~~] department.
12 The museum of Indian arts and culture located in Santa Fe
13 shall be operated as a division of the [~~cultural affairs~~]
14 department under the imprimatur of the museum of New Mexico.
15 The museum of New Mexico board of regents shall exercise
16 trusteeship over the museum of Indian arts and culture.

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

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

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

24 C. The director shall be appointed by the
25 secretary [~~of cultural affairs~~] from a list of no [~~less~~]

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1 fewer than three names provided by the museum of New Mexico
2 board of regents."

3 SECTION 15. Section 9-4A-17 NMSA 1978 (being Laws 2004,
4 Chapter 25, Section 17) is amended to read:

5 "9-4A-17. STATE MONUMENTS DIVISION CREATED--BOARD OF
6 REGENTS.--

7 A. The "state monuments division" is created in
8 the [~~cultural affairs~~] department. The division shall manage
9 the state's monuments, including:

- 10 (1) Coronado state monument;
- 11 (2) Jemez state monument;
- 12 (3) Fort Selden state monument;
- 13 (4) Fort Sumner state monument and Bosque
14 Redondo memorial;
- 15 (5) Lincoln state monument;
- 16 (6) El Camino Real international heritage
17 center; [~~and~~]
- 18 (7) the Taylor Reynolds Barela Mesilla state
19 monument; and
- 20 (8) Fort Stanton state monument.

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

25 C. The director of the division shall meet the

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1 following minimum qualifications:

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

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

7 D. The director shall be appointed by the
8 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
9 fewer than three names provided by the museum of New Mexico
10 board of regents."

11 SECTION 16. Section 9-4A-18 NMSA 1978 (being Laws 2004,
12 Chapter 25, Section 18) is amended to read:

13 "9-4A-18. ARCHAEOLOGICAL SERVICES DIVISION CREATED--
14 BOARD OF REGENTS.--

15 A. The "archaeological services division" is
16 created in the [~~cultural affairs~~] department. The division
17 shall be operated as a division of the [~~cultural affairs~~]
18 department under the imprimatur of the museum of New Mexico.

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

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

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

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

4 D. The director shall be appointed by the
5 secretary [~~of cultural affairs~~] from a list of no [~~less~~]
6 fewer than three names provided by the museum of New Mexico
7 board of regents."

8 SECTION 17. Section 9-4A-20 NMSA 1978 (being Laws 2005,
9 Chapter 121, Section 1) is amended to read:

10 "9-4A-20. MUSEUM COLLECTIONS FUND--CREATED--PURPOSE--
11 NATIONAL MUSEUM ETHICAL GUIDELINES.--

12 A. The "museum collections fund" is created in
13 the state treasury. The fund is a nonreverting fund, and
14 income from investment of the fund shall be credited to the
15 fund. The fund shall be administered by the [~~cultural~~
16 ~~affairs~~] department, and money in the fund is appropriated to
17 the department as provided in Subsection B of this section.

18 B. The purpose of the fund is to receive proceeds
19 from the deaccessioning of museum collection items of each
20 state museum and to fund new acquisitions for the museums.
21 To comply with national museum ethical guidelines, each
22 museum may have a subaccount in the museum collections fund
23 into which the proceeds of the deaccessioning of its
24 collection items and income from investment of the proceeds
25 are credited and out of which the museum may expend money for

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1 the sole purpose of acquiring objects for that museum's
2 collection. Money in the fund shall be expended on warrant
3 of the secretary of finance and administration pursuant to
4 vouchers signed by the director of the appropriate museum
5 division and the secretary of tourism and cultural affairs or
6 the secretary's authorized representative."

7 SECTION 18. A new section of the Tourism and Cultural
8 Affairs Department Act is enacted to read:

9 "[NEW MATERIAL] MARKETING AND PROMOTION DIVISION
10 CREATED--DUTIES.--The "marketing and promotion division" is
11 created in the department to conduct advertising, public
12 relations and media outreach for tourism, museums, monuments
13 and other cultural resources of the state and to provide
14 oversight of state funding for local government marketing and
15 promotion. The division shall:

16 A. develop rigorous performance measures for
17 marketing and promotion that will improve the ability of the
18 department to credibly analyze the effectiveness of state
19 marketing and promotions funding;

20 B. develop a system, including web sites and
21 social media, to capture useful traveler insights that can be
22 used to improve both the delivery of tourism and cultural
23 services and the usefulness of state marketing and promotion
24 efforts;

25 C. promote and market Native American tourism-

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1 related activities; and

2 D. work closely with the tourism commission, the
3 tourism development division, the New Mexico magazine
4 division and the museum divisions to ensure a cohesive and
5 comprehensive marketing and promotion strategy for the
6 state."

7 SECTION 19. A new section of the Tourism and Cultural
8 Affairs Department Act is enacted to read:

9 "[NEW MATERIAL] NEW MEXICO MAGAZINE DIVISION CREATED--
10 DUTIES.--The "New Mexico magazine division" is created in the
11 department to publish a monthly magazine that highlights New
12 Mexico's natural assets, diverse cultures and enriching
13 adventures. The division shall:

14 A. use a multimedia platform approach to reach a
15 wide range of constituents; and

16 B. develop a sales line of New Mexico-made
17 products that ties in with the department's purposes."

18 SECTION 20. A new section of the Tourism and Cultural
19 Affairs Department Act is enacted to read:

20 "[NEW MATERIAL] TOURISM DEVELOPMENT DIVISION CREATED--
21 DUTIES.--

22 A. The "tourism development division" is created
23 in the department to:

24 (1) provide a coordinated statewide
25 perspective with regard to tourism activities; and

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1 (2) provide constituent services for
2 communities and regions of the state and other entities to
3 help them identify tourism needs; develop and advertise local
4 points of interest, locales and tourist-related services; and
5 identify resources to improve local and regional tourism
6 efforts.

7 B. The division shall:

8 (1) encourage Native American tourism
9 programs;

10 (2) support and promote community efforts in
11 attracting and hosting sports-related tourism events;

12 (3) provide a database for local and
13 regional tourism groups and serve as a comprehensive source
14 of information and assistance to tourism-related businesses
15 wishing to locate, expand or do business in New Mexico;

16 (4) maintain and update records on the
17 status of all completed and ongoing tourism projects of the
18 department; and

19 (5) work closely with the marketing and
20 promotion division, the New Mexico magazine division, the
21 tourism commission and the museum divisions to ensure a
22 cohesive and comprehensive tourism development strategy for
23 the state."

24 SECTION 21. A new section of the Tourism and Cultural
25 Affairs Department Act is enacted to read:

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1 "[NEW MATERIAL] TOURISM COMMISSION CREATED--MEMBERSHIP--
2 ADMINISTRATIVELY ATTACHED--DUTIES.--

3 A. The "tourism commission" is created as an
4 advisory commission to the marketing and promotion division
5 and the tourism development division. The commission shall
6 assist with the annual update of the state's five-year
7 tourism plan. The commission consists of seven members
8 appointed by the governor, no more than four of whom, at the
9 time of their appointment, are members of the same political
10 party and at least one of whom shall be a Native American.
11 Two members shall be appointed from each of the three
12 congressional districts, and one member shall be appointed
13 from the state at large. Appointments shall be made for
14 seven-year terms expiring on January 1 of the appropriate
15 year. Commission members shall serve staggered terms as
16 determined by the governor at the time of their initial
17 appointment. The governor shall designate the chair of the
18 commission each year from among its members. Vacancies on
19 the commission shall be filled by appointment by the governor
20 for the unexpired term.

21 B. The commission shall meet at the call of the
22 chair not less than once each quarter and shall invite
23 representatives of appropriate legislative committees, other
24 state agencies and interested persons to its meetings for the
25 purpose of information exchange and coordination. Commission

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1 members shall not vote by proxy. A majority of the members
2 constitutes a quorum for the conduct of business. Members
3 are entitled to receive per diem and mileage as provided in
4 the Per Diem and Mileage Act but shall receive no other
5 compensation, perquisite or allowance."

6 SECTION 22. A new section of the Tourism and Cultural
7 Affairs Department Act is enacted to read:

8 "[NEW MATERIAL] TOURISM ENTERPRISE FUND CREATED--
9 ADMINISTRATION.--

10 A. The "tourism enterprise fund" is created as a
11 nonreverting fund in the state treasury. The fund consists
12 of appropriations, gifts, grants, donations, fees and
13 departmental receipts from sales of souvenirs and sundries at
14 visitors centers, web-site-related sales and television
15 special program rights and any other money credited to the
16 fund. The fund shall be administered by the department, and
17 money in the fund is appropriated to the department to carry
18 out the duties of the department related to tourism.
19 Disbursements from the fund shall be made only upon warrant
20 drawn by the secretary of finance and administration pursuant
21 to vouchers signed by the secretary of tourism and cultural
22 affairs or the secretary's designated representative.

23 B. Money in the tourism enterprise fund that was
24 created in Section 9-15A-4.1 NMSA 1978 is transferred to this
25 fund."

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1 SECTION 23. Section 9-15-30 NMSA 1978 (being Laws 1988,
2 Chapter 80, Section 4, as amended) is amended to read:

3 "9-15-30. MEXICAN AFFAIRS DIVISION CREATED--DUTIES.--

4 A. The "Mexican affairs division" is created as a
5 division of the department.

6 B. The division shall be responsible for
7 conducting and coordinating the state's relations with the
8 Republic of Mexico and the state of Chihuahua and shall
9 promote New Mexico products and services in Mexico. The
10 division is created to coordinate activities of the
11 department, the tourism [~~department the~~] and cultural affairs
12 department, the department of transportation, the department
13 of health, the department of environment, the department of
14 public safety, the New Mexico-Chihuahua commission, the
15 border authority and the joint border research institute at
16 New Mexico state university as those activities relate to
17 improving New Mexico-Mexico relations and trade and
18 encouraging or funding appropriate border development.

19 C. The division shall provide periodic reports to
20 the New Mexico finance authority oversight committee on its
21 activities and the activities of the state pertaining to New
22 Mexico-Mexico relations, trade and border development."

23 SECTION 24. Section 9-15C-2 NMSA 1978 (being Laws 2005,
24 Chapter 219, Section 2, as amended) is amended to read:

25 "9-15C-2. DEFINITIONS.--As used in the Intertribal

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1 Ceremonial Act:

2 A. "department" means the tourism and cultural
3 affairs department;

4 B. "director" means the director of the
5 intertribal ceremonial office;

6 C. "fund" means the intertribal ceremonial fund;

7 D. "office" means the intertribal ceremonial
8 office; and

9 E. "secretary" means the secretary of tourism and
10 cultural affairs."

11 SECTION 25. Section 13-1-98 NMSA 1978 (being Laws 1984,
12 Chapter 65, Section 71, as amended) is amended to read:

13 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
14 provisions of the Procurement Code shall not apply to:

15 A. procurement of items of tangible personal
16 property or services by a state agency or a local public body
17 from a state agency, a local public body or external
18 procurement unit except as otherwise provided in Sections
19 13-1-135 through 13-1-137 NMSA 1978;

20 B. procurement of tangible personal property or
21 services for the governor's mansion and grounds;

22 C. printing and duplicating contracts involving
23 materials that are required to be filed in connection with
24 proceedings before administrative agencies or state or
25 federal courts;

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1 D. purchases of publicly provided or publicly
2 regulated gas, electricity, water, sewer and refuse
3 collection services;

4 E. purchases of books and periodicals from the
5 publishers or copyright holders thereof;

6 F. travel or shipping by common carrier or by
7 private conveyance or to meals and lodging;

8 G. purchase of livestock at auction rings or to
9 the procurement of animals to be used for research and
10 experimentation or exhibit;

11 H. contracts with businesses for public school
12 transportation services;

13 I. procurement of tangible personal property or
14 services, as defined by Sections 13-1-87 and 13-1-93 NMSA
15 1978, by the corrections industries division of the
16 corrections department pursuant to rules adopted by the
17 corrections industries commission, which shall be reviewed by
18 the purchasing division of the general services department
19 prior to adoption;

20 J. minor purchases not exceeding five thousand
21 dollars (\$5,000) consisting of magazine subscriptions,
22 conference registration fees and other similar purchases
23 where prepayments are required;

24 K. municipalities having adopted home rule
25 charters and having enacted their own purchasing ordinances;

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1 L. the issuance, sale and delivery of public
2 securities pursuant to the applicable authorizing statute,
3 with the exception of bond attorneys and general financial
4 consultants;

5 M. contracts entered into by a local public body
6 with a private independent contractor for the operation, or
7 provision and operation, of a jail pursuant to Sections
8 33-3-26 and 33-3-27 NMSA 1978;

9 N. contracts for maintenance of grounds and
10 facilities at highway rest stops and other employment
11 opportunities, excluding those intended for the direct care
12 and support of persons with handicaps, entered into by state
13 agencies with private, nonprofit, independent contractors who
14 provide services to persons with handicaps;

15 O. contracts and expenditures for services or
16 items of tangible personal property to be paid or compensated
17 by money or other property transferred to New Mexico law
18 enforcement agencies by the United States department of
19 justice drug enforcement administration;

20 P. contracts for retirement and other benefits
21 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

22 Q. contracts with professional entertainers;

23 R. contracts and expenditures for litigation
24 expenses in connection with proceedings before administrative
25 agencies or state or federal courts, including experts,

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1 mediators, court reporters, process servers and witness fees,
2 but not including attorney contracts;

3 S. contracts for service relating to the design,
4 engineering, financing, construction and acquisition of
5 public improvements undertaken in improvement districts
6 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and
7 in county improvement districts pursuant to Subsection L of
8 Section 4-55A-12.1 NMSA 1978;

9 T. works of art for museums or for display in
10 public buildings or places;

11 U. contracts entered into by a local public body
12 with a person, firm, organization, corporation or association
13 or a state educational institution named in Article 12,
14 Section 11 of the constitution of New Mexico for the
15 operation and maintenance of a hospital pursuant to Chapter
16 3, Article 44 NMSA 1978, lease or operation of a county
17 hospital pursuant to the Hospital Funding Act or operation
18 and maintenance of a hospital pursuant to the Special
19 Hospital District Act;

20 V. purchases of advertising in all media,
21 including radio, television, print and electronic;

22 W. purchases of promotional goods intended for
23 resale by the tourism and cultural affairs department;

24 X. procurement of printing services for materials
25 produced and intended for resale by the tourism and cultural

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1 affairs department;

2 Y. procurement by or through the public education
3 department from the federal department of education relating
4 to parent training and information centers designed to
5 increase parent participation, projects and initiatives
6 designed to improve outcomes for students with disabilities
7 and other projects and initiatives relating to the
8 administration of improvement strategy programs pursuant to
9 the federal Individuals with Disabilities Education Act;
10 provided that the exemption applies only to procurement of
11 services not to exceed two hundred thousand dollars
12 (\$200,000);

13 Z. procurement of services from community
14 rehabilitation programs or qualified individuals pursuant to
15 the State Use Act;

16 AA. purchases of products or services for
17 eligible persons with disabilities pursuant to the federal
18 Rehabilitation Act of 1973;

19 BB. procurement, by either the department of
20 health or Grant county or both, of tangible personal
21 property, services or construction that are exempt from the
22 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

23 CC. contracts for investment advisory services,
24 investment management services or other investment-related
25 services entered into by the educational retirement board,

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1 the state investment officer or the retirement board created
2 pursuant to the Public Employees Retirement Act;

3 DD. the purchase for resale by the state fair
4 commission of feed and other items necessary for the upkeep
5 of livestock; and

6 EE. contracts entered into by the crime victims
7 reparation commission to distribute federal grants to assist
8 victims of crime, including grants from the federal Victims
9 of Crime Act of 1984 and the federal Violence Against Women
10 Act."

11 SECTION 26. Section 13-4A-3 NMSA 1978 (being Laws 1986,
12 Chapter 11, Section 3, as amended) is amended to read:

13 "13-4A-3. DEFINITIONS.--As used in the Art in Public
14 Places Act:

15 A. "agency" means all state departments and
16 agencies, boards, councils, institutions, commissions and
17 quasi-public corporations, including all state educational
18 institutions enumerated in Article 12, Section 11 of the
19 constitution of New Mexico, and all statutorily created post-
20 secondary educational institutions;

21 B. "architect" means the person or firm designing
22 the project for the contracting agency to which the one
23 percent provision pursuant to Section 13-4A-4 NMSA 1978
24 applies;

25 C. "contracting agency" means the agency having

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1 the control, management and power to enter into contracts for
2 new construction or renovation of any public building;

3 D. "division" means the arts division of the
4 [~~office of~~] tourism and cultural affairs department;

5 E. "public buildings" means those buildings under
6 the control and management of the property control division of
7 the general services department, the department of game and
8 fish, the energy, minerals and natural resources department, the
9 [~~state highway and~~] department of transportation [~~department~~],
10 the state fair commission, the supreme court, the commissioner
11 of public lands, the [~~office of~~] tourism and cultural affairs
12 department, the governing boards of the state educational
13 institutions and statutorily created post-secondary educational
14 institutions, the [~~state department of~~] public education
15 department and the legislature or all buildings constructed with
16 funds appropriated by the legislature. For the purposes of the
17 Art in Public Places Act, "public buildings" does not include
18 such auxiliary buildings as maintenance plants, correctional
19 facilities, warehouses or temporary structures; and

20 F. "work of art" means any work of visual art,
21 including but not limited to a drawing, painting, mural,
22 fresco, sculpture, mosaic or photograph; a work of
23 calligraphy; a work of graphic art, including an etching,
24 lithograph, offset print, silk screen or a work of graphic
25 art of like nature; works in clay, textile, fiber, wood,

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1 metal, plastic, glass and like materials; or mixed media,
2 including a collage or assemblage or any combination of the
3 foregoing art media [~~which~~] that is chosen to be included in
4 or immediately adjoining the public building under
5 consideration. Under special circumstances, the term may
6 include environmental landscaping if approved by the
7 division."

8 SECTION 27. Section 15-3B-2 NMSA 1978 (being Laws 1972,
9 Chapter 74, Section 2, as amended) is amended to read:

10 "15-3B-2. DEFINITIONS.--As used in the Property Control
11 Act:

12 A. "capital outlay project" means the acquisition,
13 improvement, alteration or reconstruction of assets of a
14 long-term character that are intended to continue to be held
15 or used, including land, buildings, machinery, furniture and
16 equipment. A "capital outlay project" includes all proposed
17 expenditures related to the entire undertaking;

18 B. "department" means the general services
19 department;

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

21 D. "division" means the property control division
22 of the department;

23 E. "jurisdiction" means all state buildings and
24 land except those under the control and management of the
25 state armory board, the border authority, the tourism and

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1 cultural affairs department, the state fair commission, the
2 department of game and fish, the department of
3 transportation, the commissioner of public lands, the state
4 parks division of the energy, minerals and natural resources
5 department, the state institutions of higher learning,
6 regional education cooperatives, the New Mexico school for
7 the deaf, the New Mexico school for the blind and visually
8 impaired, the judicial branch, the legislative branch,
9 property acquired by the economic development department
10 pursuant to the Statewide Economic Development Finance Act
11 and property acquired by the public school facilities
12 authority pursuant to the Public School Capital Outlay Act;
13 and

14 F. "secretary" means the secretary of general
15 services."

16 SECTION 28. Section 15-5A-7 NMSA 1978 (being Laws 2007,
17 Chapter 160, Section 7) is amended to read:

18 "15-5A-7. ARTS AND CULTURAL DISTRICT FUND
19 ESTABLISHED.--The "arts and cultural district fund" is
20 created as a nonreverting fund in the state treasury. The
21 fund consists of appropriations, gifts, grants, donations and
22 bequests. The fund shall be administered by the tourism and
23 cultural affairs department, and money in the fund is
24 appropriated to the tourism and cultural affairs department
25 to carry out the provisions of the Arts and Cultural District

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1 Act. Money in the fund shall be disbursed on warrants signed
2 by the secretary of finance and administration pursuant to
3 vouchers signed by the secretary of tourism and cultural
4 affairs or the secretary's authorized representative."

5 SECTION 29. Section 16-6-5 NMSA 1978 (being Laws 1977,
6 Chapter 245, Section 18, as amended) is amended to read:

7 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY
8 ATTACHED TO TOURISM AND CULTURAL AFFAIRS DEPARTMENT.--The
9 state fair commission is administratively attached, as
10 defined in the Executive Reorganization Act, to the tourism
11 and cultural affairs department."

12 SECTION 30. Section 18-2-3 NMSA 1978 (being Laws 1977,
13 Chapter 246, Section 10, as amended) is amended to read:

14 "18-2-3. LIBRARY DIVISION--CREATION--DIRECTOR.--

15 A. The "library division" is created within the
16 tourism and cultural affairs department.

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

22 SECTION 31. Section 18-2-23 NMSA 1978 (being Laws 2001,
23 Chapter 205, Section 1) is amended to read:

24 "18-2-23. FUND CREATED--ADMINISTRATION--PURPOSE.--

25 A. The "tribal libraries endowment fund" is created

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1 in the state treasury. The fund shall consist of all money
2 appropriated to the fund and any grants, gifts and bequests
3 made to the fund. Any money in the fund shall not revert to
4 the general fund at the end of any fiscal year.

5 B. The tribal library program of the library
6 division of the ~~[office of]~~ tourism and cultural affairs
7 department shall administer the tribal libraries endowment
8 fund and shall make disbursements from the earnings on the
9 investment of the fund for the purpose of funding the
10 establishment, development and administration of tribal
11 libraries in New Mexico.

12 C. The library division ~~[of the office of cultural~~
13 ~~affairs]~~ may adopt rules and procedures as necessary or
14 appropriate to administer the tribal libraries endowment fund
15 after consultation with the tribal librarians."

16 SECTION 32. Section 18-3-9 NMSA 1978 (being Laws 2005,
17 Chapter 277, Section 1) is amended to read:

18 "18-3-9. STATE MUSEUMS IMPROVEMENTS AND EXHIBITS FUND
19 CREATED--USE.--

20 A. The "state museums improvements and exhibits
21 fund" is created in the state treasury. The fund shall
22 consist of:

- 23 (1) money appropriated and transferred to the
24 fund;
25 (2) gifts, grants, donations and bequests; and

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1 (3) fifteen percent of the state museums'
2 admission fees and facilities rentals.

3 B. Earnings from investment of the state museums
4 improvements and exhibits fund shall be credited to the fund.
5 Money in the fund is appropriated to the tourism and cultural
6 affairs department to be distributed to state museums
7 pursuant to the provisions of this section. Any unexpended
8 or unencumbered balance remaining at the end of a fiscal year
9 shall not revert. Disbursements from the fund shall be made
10 upon warrants drawn by the secretary of finance and
11 administration pursuant to vouchers signed by the secretary
12 of tourism and cultural affairs.

13 C. Money in the state museums improvements and
14 exhibits fund shall be expended by the tourism and cultural
15 affairs department for development, implementation and
16 maintenance of exhibitions at state museums and for
17 maintenance and repairs of state museum facilities. Revenues
18 in the fund earned by a specific division shall be expended
19 by that division.

20 D. As used in this section, "state museum" means a
21 museum, state monument, cultural center or laboratory
22 administered by the tourism and cultural affairs department."

23 SECTION 33. Section 18-3A-3 NMSA 1978 (being Laws 1980,
24 Chapter 128, Section 3, as amended) is amended to read:

25 "18-3A-3. DEFINITIONS.--As used in the Natural History

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1 and Science Museum Act:

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

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

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

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

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

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

16 SECTION 34. Section 18-3A-4 NMSA 1978 (being Laws 1980,
17 Chapter 128, Section 4, as amended) is amended to read:

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

20 A. The "natural history and science museum
21 division" is created within the tourism and cultural affairs
22 department. The principal facility of this division is the
23 "New Mexico museum of natural history and science" located in
24 Albuquerque. The site shall be held in the name of the
25 state.

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

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

8 **SECTION 35.** Section 18-3A-7 NMSA 1978 (being Laws 1987,
9 Chapter 38, Section 5, as amended) is amended to read:

10 "18-3A-7. BOARD--POWERS AND DUTIES.--The board shall:

11 A. exercise trusteeship over the collections of the
12 museum;

13 B. accept and hold title to all property for museum
14 use;

15 C. review annually the performance of the director
16 and report its findings to the secretary of tourism and
17 cultural affairs;

18 D. enter into agreements or contracts with private
19 or public organizations, agencies or individuals for the
20 purpose of obtaining real or personal property for museum
21 use;

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

25 F. adopt such rules as may be necessary to carry

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1 out the provisions of this section; and

2 G. establish museum policy and determine the
3 mission and direct the development of the institution subject
4 to the decision of the secretary of tourism and cultural
5 affairs in event of conflict between the board and the
6 tourism and cultural affairs department."

7 SECTION 36. Section 18-4-6 NMSA 1978 (being Laws 1949,
8 Chapter 138, Section 5, as amended) is amended to read:

9 "18-4-6. LINCOLN MONUMENT--STATE MONUMENTS DIVISION--
10 POWERS AND DUTIES.--The state monuments division of the
11 tourism and cultural affairs department shall be entrusted
12 with the protection and preservation of the old Lincoln
13 county courthouse. The state monuments division:

14 A. shall maintain and operate the monument as a
15 memorial and state museum of old Lincoln county [~~shall have~~
16 ~~power to~~];

17 B. may acquire and hold real estate in the name of
18 the state [~~and to~~];

19 C. may act in cooperation with the federal
20 government or any of its agencies in preserving the monument;
21 and [~~shall have power to~~]

22 D. may accept gifts, grants and donations from any
23 person, firm, corporation, agency or any group of persons for
24 the collections of the museum or the maintenance and
25 operation of the monument."

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1 SECTION 37. Section 18-5-2 NMSA 1978 (being Laws 1978,
2 Chapter 70, Section 1, as amended) is amended to read:

3 "18-5-2. DEFINITIONS.--As used in Chapter 18, Article 5
4 NMSA 1978:

5 A. "commission" means the New Mexico arts
6 commission;

7 B. "creative arts" means the act of writing,
8 composing or designating and executing literature, including
9 poetry; drama; music, including opera and choral works;
10 ballet and dance; painting; sculpturing; graphic arts;
11 photography; crafts; architecture; and films and television;

12 C. "director" means the executive head of the
13 division;

14 D. "division" means the arts division of the
15 tourism and cultural affairs department; and

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

24 SECTION 38. Section 18-5-6 NMSA 1978 (being Laws 1978,
25 Chapter 70, Section 5, as amended) is amended to read:

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1 "18-5-6. DIVISION--CREATION--DIRECTOR--APPOINTMENT.--

2 A. The "arts division" is created within the
3 tourism and cultural affairs department.

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

10 SECTION 39. Section 18-5-7 NMSA 1978 (being Laws 1978,
11 Chapter 70, Section 6, as amended) is amended to read:

12 "18-5-7. DIVISION--POWERS--DUTIES.--The powers and
13 duties of the [arts] division [~~of the office of cultural~~
14 ~~affairs shall be~~] are to:

15 A. [~~to~~] advise and assist public agencies in
16 planning civic beautification;

17 B. [~~to~~] foster appreciation for the fine arts;

18 C. [~~to~~] make this state more appealing to the
19 world;

20 D. [~~to~~] encourage the creative activity in the arts
21 of residents of this state and to attract to this state's
22 residency additional outstanding creators in the field of
23 fine arts through appropriate programs of publicity,
24 education, coordination and direct activities such as
25 sponsorship of performing and visual arts;

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1 E. [~~to~~] accept on behalf of the state such
2 donations of money, property or memorials as in its
3 discretion are suitable and shall best further the aims of
4 [~~Sections 18-5-1 through 18-5-7~~] Chapter 18, Article 5 NMSA
5 1978. The division [~~shall be empowered to~~] may accept any
6 additional gifts, contributions or bequests from private
7 persons, corporations, foundations or agencies or the federal
8 government. Such money so gained may be reemployed as part
9 of a revolving fund to be used to further the purpose of
10 [~~Sections 18-5-1 through 18-5-7~~] Chapter 18, Article 5 NMSA
11 1978;

12 F. [~~to~~] make, through its director, rules [~~and~~
13 ~~regulations~~] necessary to administer the division and as
14 provided by law; and

15 G. [~~to~~] perform other duties as provided by law."

16 **SECTION 40.** Section 18-6-5 NMSA 1978 (being Laws 1969,
17 Chapter 223, Section 5, as amended) is amended to read:

18 "18-6-5. COMMITTEE--POWERS AND DUTIES.--The primary
19 function of the committee is to review proposals for the
20 preservation of cultural properties. The committee is
21 authorized to take such actions as are reasonable and
22 consistent with law to identify cultural properties and to
23 advise on the protection and preservation of those
24 properties. Among such actions as may be necessary and
25 proper to the fulfillment of these responsibilities, and

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1 without being limited hereby, the committee:

2 A. shall determine what constitutes historical,
3 archaeological, scientific, architectural and other cultural
4 significance for the purpose of identifying cultural
5 properties as used in the Cultural Properties Act;

6 B. shall prepare and keep up to date the official
7 register. This official register shall be composed of
8 properties identified by the committee as having historical
9 or other cultural significance and integrity, being suitable
10 for preservation and having educational significance;

11 C. shall prepare and maintain proper documentation
12 of the historic or other significance of cultural properties.
13 The committee is granted access to all state and local public
14 documents that may be necessary for the documentation, and
15 such state and local agencies as have custody of such
16 documents are authorized to allow the committee to examine
17 and reproduce those documents useful for the documentation;

18 D. shall inspect all registered cultural properties
19 periodically to ~~[assure]~~ ensure proper cultural or historical
20 integrity and proper maintenance. The inspection may be made
21 by an authorized representative of the committee or the
22 historic preservation division of the ~~[office of]~~ tourism and
23 cultural affairs department. Such inspection shall be made
24 only with the written consent of the owner or ~~[his]~~ the
25 owner's authorized representative;

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1 E. shall, based upon the inspection of a registered
2 cultural property, recommend such repairs, maintenance and
3 other measures as should be taken to maintain registered
4 status;

5 F. shall issue [~~regulations~~] rules pertaining to
6 the identification, preservation and maintenance of
7 registered cultural properties in order to maintain the
8 integrity of those properties;

9 G. may delete from the official register any
10 registered cultural property whose owner does not comply with
11 the committee's [~~regulations~~] rules or follow its
12 recommendations for repair and maintenance or [~~which~~] that,
13 upon presentation of further evidence, does not merit
14 continued official registry;

15 H. may recommend to the museum resources division
16 of the [~~office of~~] tourism and cultural affairs department
17 and other public administrators of registered cultural
18 properties measures for the investigation, restoration and
19 protection of such properties;

20 I. may encourage and render technical advice to
21 private owners of registered cultural properties in order
22 that such properties may be preserved;

23 J. may encourage and provide technical assistance
24 to municipalities and counties in acquiring, preserving and
25 developing cultural properties within their jurisdictions;

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1 K. shall cooperate with federal, state, local and
2 private agencies and persons engaged in the administration,
3 development or other work relating to cultural properties
4 within the state;

5 L. shall pursue all activities in a manner
6 consistent with state and federal laws and regulations;

7 M. may encourage and promote public appreciation of
8 New Mexico's historical and cultural heritage by:

9 (1) reviewing for accuracy the proposed
10 publication of information on cultural properties; and

11 (2) reviewing the accuracy and adequacy of
12 proposed marking of cultural properties;

13 N. may [~~utilize~~] use the assistance of individuals,
14 local organizations, state agencies and others interested in
15 the identification and preservation of cultural properties;

16 O. may issue, with the concurrence of the state
17 archaeologist and the state historic preservation officer,
18 permits for the examination or excavation of sites and the
19 collection or removal of objects of antiquity or general
20 scientific interest, where such sites or objects are located
21 on state lands, to institutions [~~which~~] that the committee
22 may deem to be properly qualified to conduct such
23 examination, excavation or collection, subject to such rules
24 [~~and regulations~~] as the committee may prescribe; provided
25 that the examinations, excavations and collections are

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1 undertaken by reputable museums, universities, colleges or
2 other historical, scientific or educational institutions or
3 societies approved by the committee, with a view toward
4 disseminating knowledge about cultural properties; and
5 provided that a summary report of such investigations,
6 containing relevant maps, documents, drawings and
7 photographs, be submitted to the committee, which shall in
8 turn submit the report to the appropriate agency or make
9 other appropriate disposition of the report; and provided
10 further that all specimens so collected shall be the property
11 of New Mexico and that prior arrangements be made for the
12 disposition of specimens derived from such investigations in
13 an appropriate institution of the state or for loan of such
14 specimens to qualified institutions in or out of the state;

15 P. shall provide advice to the state historic
16 preservation officer [~~is~~] of the historic preservation
17 division and to the director of the museum resources division
18 of the [~~office of~~] tourism and cultural affairs department on
19 cultural properties; and

20 Q. shall make, in conjunction with the historic
21 preservation division, an annual report on its activities to
22 the governor and the legislature. The report may contain
23 recommendations for the more effective preservation of New
24 Mexico's historic and cultural heritage."

25 SECTION 41. Section 18-6-6 NMSA 1978 (being Laws 1969,

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1 Chapter 223, Section 6, as amended) is amended to read:

2 "18-6-6. TOURISM AND CULTURAL AFFAIRS DEPARTMENT--
3 POWERS AND DUTIES RELATING TO THE CULTURAL PROPERTIES ACT.--

4 A. The tourism and cultural affairs department is
5 responsible for administering, developing and maintaining all
6 registered cultural properties in its ownership or custody.

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

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

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

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

11 SECTION 42. Section 18-6-7 NMSA 1978 (being Laws 1969,
12 Chapter 223, Section 7, as amended) is amended to read:

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

16 A. The state historic preservation officer of the
17 historic preservation division of the tourism and cultural
18 affairs department shall, with the concurrence of the
19 committee, prepare a long-range plan for the preservation of
20 cultural properties, including but not limited to the
21 identification, acquisition, restoration and protection of
22 historic and cultural properties and the maintenance and
23 expansion of statewide historic and prehistoric site
24 databases.

25 B. The historic preservation division shall

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

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

9 SECTION 43. Section 18-6-8 NMSA 1978 (being Laws 1977,
10 Chapter 246, Section 38, as amended) is amended to read:

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

13 A. The "historic preservation division" is created
14 within the tourism and cultural affairs department.

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

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

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

25 (3) a substantial contribution through

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1 research and publication to the body of scholarly knowledge
2 in the field of American history, anthropology, architecture
3 or historic preservation or any combination of these.

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

14 D. The state historic preservation officer, in
15 conjunction with the secretary of tourism and cultural
16 affairs:

- 17 (1) shall provide staff to the committee;
18 (2) shall maintain the state register of
19 cultural properties;
20 (3) may fund historic site surveys and may
21 fund restorations;
22 (4) shall administer historic preservation tax
23 benefit programs; and
24 (5) shall review state undertakings to
25 determine their effect upon significant historic properties."

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1 SECTION 44. Section 18-6-15 NMSA 1978 (being Laws 1969,
2 Chapter 223, Section 13, as amended) is amended to read:

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

11 SECTION 45. Section 18-6-20 NMSA 1978 (being Laws 1987,
12 Chapter 7, Section 3, as amended) is amended to read:

13 "18-6-20. DEFINITIONS.--As used in the Historic
14 Preservation Loan Act:

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

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

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

21 D. "property owner" means the sole owner, joint
22 owner, owner in partnership or corporate owner of a
23 registered cultural property. As used in this subsection,
24 the term "property owner" includes the owner of a leasehold
25 interest in a registered cultural property, if the term of

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1 the lease is not less than nineteen years; and

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

6 SECTION 46. Section 18-6-25 NMSA 1978 (being Laws 2007,
7 Chapter 299, Section 2 and Laws 2007, Chapter 300, Section 2)
8 is amended to read:

9 "18-6-25. DEFINITIONS.--As used in the Reburial Grounds
10 Act:

11 A. "department" means the tourism and cultural
12 affairs department;

13 B. "descendant group" means persons demonstrably
14 related to the remains by consanguinity, family affiliation,
15 clan or direct historical association and includes a Native
16 American nation, band, tribe or pueblo in New Mexico;

17 C. "funerary object" means an object or artifact
18 associated with a human burial;

19 D. "reburial grounds" means state or federal land
20 set aside pursuant to the Reburial Grounds Act that secures
21 and preserves unmarked graves for remains not claimed by a
22 descendant group;

23 E. "remains" means a human body, skeletal remains
24 or mummified remains discovered during construction and other
25 projects or exposed through erosion, excavation or accident

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1 or other means on state, federal and private lands and
2 includes a funerary object or artifact associated with the
3 remains; and

4 F. "state land" means property owned, controlled or
5 operated by a department, agency, institution or political
6 subdivision of the state."

7 SECTION 47. Section 18-6A-2 NMSA 1978 (being Laws 1993,
8 Chapter 176, Section 2, as amended) is amended to read:

9 "18-6A-2. DEFINITIONS.--As used in the Cultural
10 Properties Protection Act:

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

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

16 C. "division" means the historic preservation
17 division of the tourism and cultural affairs department;

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

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

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

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

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

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

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

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

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

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

25 **SECTION 48.** Section 18-7-1 NMSA 1978 (being Laws 1978,

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1 Chapter 72, Section 1, as amended) is amended to read:

2 "18-7-1. MUSEUM OF SPACE HISTORY DIVISION--CREATION.--

3 The "museum of space history division" is created within the
4 tourism and 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 49. Section 18-7-4 NMSA 1978 (being Laws 1978,
9 Chapter 72, Section 4, as amended) is amended to read:

10 "18-7-4. DIRECTOR--EMPLOYMENT.--The director of the
11 museum of space history division shall be hired by the
12 secretary of tourism and cultural affairs."

13 SECTION 50. Section 18-8-3 NMSA 1978 (being Laws 1989,
14 Chapter 13, Section 3, as amended) is amended to read:

15 "18-8-3. DEFINITIONS.--As used in the New Mexico
16 Prehistoric and Historic Sites Preservation Act:

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

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

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

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1 properties or national register of historic places."

2 SECTION 51. Section 18-11-3 NMSA 1978 (being Laws 1991,
3 Chapter 48, Section 3, as amended) is amended to read:

4 "18-11-3. DEFINITIONS.--As used in the Farm and Ranch
5 Heritage Museum Act:

6 A. "board" means the board of the farm and ranch
7 heritage museum;

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

9 C. "division" means the farm and ranch heritage
10 museum division of the tourism and cultural affairs
11 department;

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

18 E. "museum" means the principal facility of the
19 division, including all real and personal property of the
20 division."

21 SECTION 52. Section 18-11-4 NMSA 1978 (being Laws 1991,
22 Chapter 48, Section 4, as amended) is amended to read:

23 "18-11-4. DIVISION CREATED--OPERATION--LOCATION--
24 PROPERTY.--

25 A. The "farm and ranch heritage museum division" is
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1 created within the tourism and cultural affairs department.

2 B. The "farm and ranch heritage museum" shall be
3 located on the campus of New Mexico state university in Dona
4 Ana county.

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

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

13 SECTION 53. Section 18-12-2 NMSA 1978 (being Laws 1993,
14 Chapter 42, Section 2, as amended) is amended to read:

15 "18-12-2. DEFINITIONS.--As used in the National
16 Hispanic Cultural Center Act:

17 A. "board" means the board of directors of the
18 center;

19 B. "center" means the national Hispanic cultural
20 center;

21 C. "division" means the Hispanic cultural division
22 of the tourism and cultural affairs department; and

23 D. "director" means the director of the division."

24 SECTION 54. Section 18-12-3 NMSA 1978 (being Laws 1993,
25 Chapter 42, Section 3, as amended) is amended to read:

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1 "18-12-3. HISPANIC CULTURAL DIVISION--CREATION--
2 PROPERTY.--

3 A. The "Hispanic cultural division" is created
4 within the tourism and cultural affairs department. The
5 principal facility of this division shall be known as the
6 "national Hispanic cultural center".

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

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

14 SECTION 55. [NEW MATERIAL] SHORT TITLE.--Sections 55
15 through 62 of this act may be cited as the "African American
16 Cultural Center Act".

17 SECTION 56. [NEW MATERIAL] DEFINITIONS.--As used in the
18 African American Cultural Center Act:

19 A. "board" means the board of directors of the
20 center;

21 B. "center" means the African American performing
22 arts center;

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

24 D. "division" means the African American cultural
25 division of the tourism and cultural affairs department; and

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1 E. "secretary" means the secretary of tourism and
2 cultural affairs.

3 SECTION 57. [NEW MATERIAL] AFRICAN AMERICAN CULTURAL
4 DIVISION--CREATION--PROPERTY.--

5 A. The "African American cultural division" is
6 created within the tourism and cultural affairs department.
7 The principal facility of the division shall be known as the
8 "African American performing arts center".

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

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

16 SECTION 58. [NEW MATERIAL] BOARD OF DIRECTORS--
17 CREATED--APPOINTMENT--TERMS--OFFICERS.--

18 A. The "board of directors of the African American
19 performing arts center" is created. The board shall consist
20 of fifteen residents of New Mexico appointed by the governor
21 with the advice and consent of the senate. Two of the
22 appointees shall be employees of state institutions of higher
23 education or appropriate state agencies. In making the
24 appointments, the governor shall give due consideration to:

- 25 (1) the ethnic, economic and geographic

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1 diversity of the state;

2 (2) persons who have demonstrated an awareness
3 of and support for traditional and contemporary African
4 American culture, arts and humanities, including a strong
5 knowledge of New Mexico's African American history; and

6 (3) persons who are knowledgeable in the areas
7 of African American performing and visual arts and oral
8 traditions; genealogy; family issues; education; business; or
9 administration.

10 B. Of the initial appointees, five members shall be
11 appointed for four-year terms, five members shall be
12 appointed for three-year terms and five members shall be
13 appointed for two-year terms. All subsequent members shall
14 be appointed for four-year terms.

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

17 D. A member failing to attend three consecutive
18 meetings after receiving proper notice shall be recommended
19 for removal by the governor. The governor may also remove
20 any member of the board for neglect of any duty required by
21 law, for incompetency, for unprofessional conduct or for
22 violating any provision of the African American Cultural
23 Center Act. If a vacancy occurs on the board, the governor
24 shall appoint another member to complete the unexpired term.

25 E. The director shall be an ex-officio nonvoting

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1 member of the board.

2 F. The governor shall designate the president of
3 the board, who shall serve in that capacity at the pleasure
4 of the governor.

5 SECTION 59. [NEW MATERIAL] BOARD--POWERS AND
6 DUTIES.--The board shall:

7 A. exercise trusteeship over the collections of the
8 center;

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

11 C. review annually the performance of the director
12 and report its findings to the secretary;

13 D. enter into agreements or contracts with public
14 or private organizations or agencies or with individuals for
15 the purpose of obtaining real or personal property for the
16 center's use;

17 E. authorize the director to solicit and receive
18 funds or property of any nature for the development of the
19 center, its collections and its programs;

20 F. adopt such rules as may be necessary to carry
21 out the provisions of the African American Cultural Center
22 Act; and

23 G. establish the policy, determine the mission and
24 direct the development of the center.

25 SECTION 60. [NEW MATERIAL] DIRECTOR--APPOINTMENT--

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1 QUALIFICATIONS.--

2 A. The director shall be appointed by the
3 secretary, with the approval of the governor, from a list of
4 qualified finalists provided by the board.

5 B. Subject to the authority of the secretary, the
6 director shall be the administrative and executive officer of
7 the division. The director shall be exempt from the
8 provisions of the Personnel Act.

9 SECTION 61. [NEW MATERIAL] DIRECTOR--POWERS AND
10 DUTIES.--Subject to the policies agreed to by the board, the
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 B. shall develop exhibits and programs displaying
16 African American culture, arts and humanities for the benefit
17 of the public and with particular concern for the interests
18 of the schools in the state;

19 C. shall acquire, by donation or other means of
20 acquisition, collections and related materials appropriate to
21 an African American performing arts center and shall direct
22 research as is appropriate to render the collections
23 beneficial to the public;

24 D. shall employ such professional staff and other
25 employees as are necessary for 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 or agencies or with individuals for the
6 performance of services related to the location,
7 preservation, development, study or salvage of African
8 American cultural materials;

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

13 H. may impose and collect admission fees and
14 conduct retail sales as are normal for the operation of the
15 center;

16 I. shall perform other appropriate duties as may be
17 delegated by the governor, by the secretary or by the board,
18 or as may be provided by law;

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

22 K. may, as authorized by the board, lend collection
23 materials to qualified institutions and agencies for purposes
24 of exhibition and study and borrow collection materials from
25 other institutions and agencies for the same purpose.

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1 SECTION 62. [NEW MATERIAL] BOARD--COMPENSATION.--The
2 members of the board are entitled to receive per diem and
3 mileage as provided in the Per Diem and Mileage Act and shall
4 receive no other compensation, perquisite or allowance.

5 SECTION 63. Section 18-15-2 NMSA 1978 (being Laws 2007,
6 Chapter 83, Section 2) is amended to read:

7 "18-15-2. DEFINITIONS.--As used in the Rural Library
8 Development Act:

9 A. "division" means the library division of the
10 tourism and cultural affairs department; and

11 B. "rural library" means a public library in a
12 municipality or unincorporated village, [~~tribes, Indian~~
13 ~~nations, pueblos~~] a tribe, an Indian nation, a pueblo or a
14 community with a population of less than fifteen thousand as
15 determined by the latest federal decennial census."

16 SECTION 64. Section 21-2-6 NMSA 1978 (being Laws 1978,
17 Chapter 54, Section 1, as amended) is amended to read:

18 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND
19 PERSONS.--

20 A. The state commission in carrying out its
21 planning activities for post-secondary education shall
22 consult with and invite the active participation of:

23 (1) representatives of post-secondary
24 educational institutions of the several types enumerated in
25 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

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- 1 (2) the public education commission;
- 2 (3) the public education department;
- 3 (4) representatives of public and private
- 4 elementary and secondary schools;
- 5 (5) the secretary of [~~labor~~] workforce
- 6 solutions;
- 7 (6) the tourism and cultural affairs
- 8 department;
- 9 (7) the apprenticeship council;
- 10 (8) the economic development department;
- 11 (9) the state advisory council on vocational
- 12 education;
- 13 (10) the secretary of finance and
- 14 administration or the secretary's designee;
- 15 (11) persons familiar with the education needs
- 16 of persons with a disability and persons disadvantaged by
- 17 economic, racial or ethnic status;
- 18 (12) representatives of business, industry,
- 19 organized labor and agriculture;
- 20 (13) the general public; and
- 21 (14) private in-state post-secondary
- 22 institutions.

23 B. Whenever the planning activities carried out
24 under the provisions of Section 21-2-5 NMSA 1978 are
25 concerned with the types of post-secondary education

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1 enumerated in Subparagraphs (a) through (e) of Paragraph (1)
2 of Subsection A of Section 21-2-2 NMSA 1978, the state
3 commission shall directly involve the public education
4 commission and the public education department in all
5 planning activities."

6 SECTION 65. Section 60-1A-3 NMSA 1978 (being Laws 2007,
7 Chapter 39, Section 3) is amended to read:

8 "60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--
9 TERMS OF OFFICE.--

10 A. The "state racing commission" is created and is
11 administratively attached to the tourism and cultural affairs
12 department.

13 B. The commission shall consist of five members, no
14 more than three of whom shall be members of the same
15 political party. The commission members shall be appointed
16 by the governor and be confirmed by the senate. All members
17 of the commission shall hold at-large positions on the
18 commission.

19 C. At least three of the members of the commission
20 shall be practical breeders of racehorses within New Mexico.

21 D. A commission member shall have primary residence
22 in New Mexico and shall be of high character and reputation
23 so that public confidence in the administration of horse
24 racing is maintained.

25 E. The term of each member of the commission shall

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1 be six years from the date of the member's appointment. The
2 member shall serve until a successor is appointed. In the
3 case of a vacancy in the membership of the commission, the
4 governor shall fill the vacancy by appointment for the
5 unexpired term.

6 F. A person shall not be eligible for appointment
7 as a member of the commission who is an officer, official or
8 director in a corporation conducting horse racing within the
9 state.

10 G. Members of the commission shall receive no
11 salary, but each member of the commission shall receive per
12 diem and mileage pursuant to the Per Diem and Mileage Act.

13 H. The commission may appoint an executive director
14 and establish the executive director's duties and
15 compensation."

16 SECTION 66. Section 67-3-17 NMSA 1978 (being Laws 1967,
17 Chapter 20, Section 2, as amended) is amended to read:

18 "67-3-17. SNOW REMOVAL FROM DESIGNATED SKIING AREA
19 PARKING FACILITIES.--The state transportation commission is
20 hereby authorized and empowered to remove any snow that it
21 deems to be an obstacle to the parking of motor vehicles at
22 any parking area that serves a skiing area. If the parking
23 area is on lands owned by or leased from the state,
24 municipal, county or federal government, the cost of snow
25 removal shall be borne by the state as in the case of road

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1 maintenance. If the parking facilities are on private lands,
2 the person in control of the skiing area shall be liable for
3 the payment of such sum, not less than actual cost, as the
4 state transportation commission decides to be the reasonable
5 value of such snow removal. For the purposes of this
6 section, the phrase "skiing area" shall mean any lands or
7 areas used for the sport of skiing and recognized by the
8 tourism and cultural affairs department as a tourist
9 attraction."

10 SECTION 67. Section 67-16-3 NMSA 1978 (being Laws 1985,
11 Chapter 23, Section 3, as amended) is amended to read:

12 "67-16-3. DEFINITIONS.--As used in the Litter Control
13 and Beautification Act:

14 A. "keep America beautiful system" means a
15 comprehensive program to improve waste handling practices and
16 the control of litter;

17 B. "keep New Mexico beautiful, incorporated" is the
18 statewide organization that is the official clearinghouse for
19 beautification projects in the state;

20 C. "council" means the litter control council;

21 D. "department" means the tourism and cultural
22 affairs department;

23 E. "litter" means weeds, graffiti and all waste
24 material, including disposable packages or containers, but
25 not including the waste of the primary processes of mining,

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1 logging, sawmilling or farming;

2 F. "person" means an individual, corporation,
3 partnership, association, firm, receiver, guardian, trustee,
4 executor, administrator, fiduciary or representative or group
5 of individuals or entities of any kind;

6 G. "public place" means an area that is used or
7 held out for use by the public, whether owned or operated by
8 public or private interests; and

9 H. "recycling" means the collection, separation or
10 processing and return to the economic mainstream of raw
11 materials or products that would otherwise become solid
12 waste."

13 SECTION 68. NEW MEXICO STATE FAIR AFRICAN AMERICAN
14 PERFORMING ARTS CENTER ADDITION--CHANGE AGENCY--EXTEND
15 TIME--SEVERANCE TAX BONDS.--The unexpended balance of the
16 appropriation to the state fair commission in Subsection 1 of
17 Section 16 of Chapter 92 of Laws 2008 for an addition to the
18 African American performing arts center and exhibit hall at
19 the New Mexico state fairgrounds in Albuquerque in Bernalillo
20 county is appropriated to the tourism and cultural affairs
21 department for that purpose. The time of expenditure is
22 extended through fiscal year 2014.

23 SECTION 69. NEW MEXICO STATE FAIR AFRICAN AMERICAN
24 PERFORMING ARTS CENTER GROUNDS--CHANGE AGENCY--EXTEND
25 TIME--GENERAL FUND.--The unexpended balance of the
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1 appropriation to the state fair commission in Laws 2008,
2 Chapter 92, Section 49 to plan, design and landscape the
3 grounds at the African American performing arts center at the
4 New Mexico state fairgrounds in Albuquerque in Bernalillo
5 county is appropriated to the tourism and cultural affairs
6 department for that purpose. The time of expenditure is
7 extended through fiscal year 2014.

8 SECTION 70. TEMPORARY PROVISION--TRANSFERS.--

9 A. All functions, personnel, appropriations, money,
10 records, files, furniture, equipment and other property of
11 the cultural affairs department are transferred to the
12 tourism and cultural affairs department.

13 B. All functions, personnel, appropriations, money,
14 records, files, furniture, equipment and other property of
15 the tourism department are transferred to the tourism and
16 cultural affairs department.

17 C. All contractual obligations of the cultural
18 affairs department are binding on the tourism and cultural
19 affairs department.

20 D. All contractual obligations of the tourism
21 department are binding on the tourism and cultural affairs
22 department.

23 E. All statutory references to the cultural affairs
24 department shall be deemed to be references to the tourism
25 and cultural affairs department.

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1 F. All statutory references to the tourism
2 department shall be deemed to be references to the tourism
3 and cultural affairs department.

4 G. Any money remaining in the Fort Stanton
5 development fund is transferred to the general fund.

6 **SECTION 71. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,**
7 **PROPERTY, CONTRACTS AND REFERENCES IN LAW.--**

8 A. All personnel, appropriations, money, records,
9 equipment, supplies and other property of the state fair
10 commission and the New Mexico state fair specific to the
11 African American performing arts center at the New Mexico
12 state fairgrounds in Albuquerque in Bernalillo county are
13 transferred to the tourism and cultural affairs department.

14 B. All contracts of the state fair commission and
15 the New Mexico state fair relating to the African American
16 performing arts center at the New Mexico state fairgrounds in
17 Albuquerque in Bernalillo county are binding and effective on
18 the tourism and cultural affairs department.

19 **SECTION 72. REPEAL.--**

20 A. The Fort Stanton development commission and
21 fund, Sections 9-6-12 through 9-6-14 NMSA 1978 (being Laws
22 2003, Chapter 126, Sections 1 through 3) are repealed.

23 B. The New Mexico artisans business development
24 program, Section 9-15-35 NMSA 1978 (being Laws 1991, Chapter
25 27, Section 1) is repealed.

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C. The Tourism Department Act, Sections 9-15A-1 through 9-15A-11 NMSA 1978 (being Laws 1991, Chapter 21, Sections 1 through 4; Laws 2003, Chapter 299, Section 1; Laws 1991, Chapter 21, Sections 5 through 7; Laws 1996, Chapter 25, Section 1; Laws 1993, Chapter 101, Sections 10 and 11; and Laws 2007, Chapter 286, Sections 2 and 3 and Laws 2007, Chapter 287, Sections 2 and 3, as amended) is repealed.

D. The New Mexico Film Museum Act, Sections 18-14-1 through 18-14-6 NMSA 1978 (being Laws 2003, Chapter 250, Sections 1 through 6, as amended) is repealed.

SECTION 73. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2012.