

1 SENATE BILL 242

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

3 INTRODUCED BY

4 John T. L. Grubescic

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10 AN ACT

11 RELATING TO CULTURAL AFFAIRS; AUTHORIZING THE CULTURAL AFFAIRS
12 DEPARTMENT TO RECEIVE DONATIONS OF REAL PROPERTY FOR PURPOSES
13 OF SUPPORTING THE PERFORMING ARTS IN NEW MEXICO; AUTHORIZING
14 LEASE-PURCHASE AGREEMENTS FOR DEPARTMENT PROPERTY SUBJECT TO
15 SALE; AUTHORIZING IN-KIND PAYMENTS AS PART OF THE PURCHASE
16 PRICE OF PROPERTY SOLD PURSUANT TO A LEASE-PURCHASE AGREEMENT.

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

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

21 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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1 department is charged.

2 B. To perform the secretary's duties, the secretary
3 has every power expressly enumerated in the laws, whether
4 granted to the secretary [of] or the department, or any
5 division of the department, except where authority conferred
6 upon any division therein is explicitly exempted from the
7 secretary's authority by statute. In accordance with these
8 provisions, the secretary shall:

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

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

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

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

24 (5) take administrative action by issuing
25 orders and instructions, not inconsistent with the law, to

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1 ensure implementation of and compliance with the provisions of
2 law for whose administration or execution the secretary is
3 responsible, and to enforce those orders and instructions by
4 appropriate administrative action or actions in the courts;

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

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

13 (8) prepare an annual budget of the
14 department;

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

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

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

21 (c) resolve by agreement the manner and
22 extent to which the department shall provide budgeting,
23 recordkeeping and related clerical assistance to
24 administratively attached agencies; and

25 (10) appoint, with the governor's consent, for

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1 each division, a "director". These appointed positions are
2 exempt from the provisions of the Personnel Act. Persons
3 appointed to these positions shall serve at the pleasure of the
4 secretary.

5 C. The secretary may:

6 (1) apply for and receive, with the
7 governor's approval, in the name of the department, any public
8 or private funds, including United States government funds,
9 available to the department to carry out its programs, duties
10 or services; and

11 (2) receive donations of real property, under
12 terms and conditions to be negotiated by the department, the
13 title of which will be held in the name of the department for
14 the purpose of promoting, encouraging and supporting the
15 performing arts in New Mexico.

16 D. The secretary may, on behalf of the department,
17 enter into a lease-purchase agreement of real property to which
18 the department holds title. A part or all of the purchase or
19 lease price for the real property subject to the lease-purchase
20 agreement may be paid by in-kind performing arts programs
21 delivered throughout the state.

22 [~~D.~~] E. Where functions of departments overlap, or
23 a function assigned to one department could better be performed
24 by another department, a secretary may recommend appropriate
25 legislation to the next session of the legislature for its

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1 approval.

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

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