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AN ACT

RELATING TO CULTURAL AFFAIRS; AUTHORIZING THE CULTURAL
AFFAIRS DEPARTMENT TO OWN AND HOLD TITLE TO REAL PROPERTY FOR
PURPOSES OF SUPPORTING THE PERFORMING ARTS IN NEW MEXICO.

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

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

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

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

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

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

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

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

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

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

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

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

1 administration;

2 (8) prepare an annual budget of the
3 department;

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

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

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

10 (c) resolve by agreement the manner and
11 extent to which the department shall provide budgeting,
12 recordkeeping and related clerical assistance to
13 administratively attached agencies; and

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

19 C. The secretary may:

20 (1) apply for and receive, with the
21 governor's approval, in the name of the department, any
22 public or private funds, including United States government
23 funds, available to the department to carry out its programs,
24 duties or services; and

25 (2) acquire by purchase, gift, endowment or SB 242
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1 legacy real or personal property and hold title to that
2 property in the name of the department for the purpose of
3 promoting, encouraging and supporting the performing arts in
4 New Mexico. Property acquired pursuant to this paragraph
5 shall be held under the control and authority of the cultural
6 affairs department.

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

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

1 their views and the method by which copies of the proposed
2 rule, proposed amendment or repeal of an existing rule may be
3 obtained shall be published once at least thirty days prior to
4 the hearing date in a newspaper of general circulation and
5 mailed at least thirty days prior to the hearing date to all
6 persons who have made a written request for advance notice of
7 hearing. All rules shall be filed in accordance with the
8 State Rules Act."

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