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SENATE BILL 21

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE HISPANIC
AFFAIRS DEPARTMENT; CREATING AN ADVISORY COMMISSION; PROVIDING
POWERS AND DUTIES; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Hispanic Affairs Department Act".

Section 2. PURPOSE.--The purpose of the Hispanic Affairs
Department Act is to create a single, unified department to
administer laws and exercise functions that will enable the
executive branch to achieve a coordinated and effective system
dedicated to improving educational achievement gaps and health
care access and reducing poverty rates among Hispanics in New
Mexico.

Section 3. DEFINITIONS.--As used in the Hispanic Affairs

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1 Department Act:

2 A. "department" means the Hispanic affairs
3 department; and

4 B. "secretary" means the secretary of Hispanic
5 affairs.

6 Section 4. DEPARTMENT CREATED.--The "Hispanic affairs
7 department" is created as a cabinet department in the executive
8 branch. The department includes the following divisions:

9 A. the administrative services division; and

10 B. the program services division.

11 Section 5. SECRETARY OF HISPANIC AFFAIRS.--

12 A. The chief executive and administrative officer
13 of the department is the "secretary of Hispanic affairs". The
14 secretary shall be appointed by the governor with the consent
15 of the senate. The secretary shall hold the office at the
16 pleasure of the governor and shall serve in the executive
17 cabinet.

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

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

23 A. The secretary is responsible to the governor for
24 the operation of the department. It is the secretary's duty to
25 manage all operations of the department and to administer and

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1 enforce the laws with which the secretary or the department is
2 charged.

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

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

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

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

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

25 (5) take administrative action by issuing

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1 orders and instructions, not inconsistent with the law, to
2 ensure implementation of and compliance with the provisions of
3 law, the administration or execution of which the secretary is
4 responsible, and to enforce those orders and instructions by
5 appropriate administrative action or actions in the courts;

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

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

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

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

18 (a) minimize or eliminate duplication of
19 services;

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

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

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1 (10) appoint, with the governor's consent, for
2 each division, a director. Persons appointed to these
3 positions serve at the pleasure of the secretary.

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

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

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

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

10 Section 7. DEPARTMENT--ADDITIONAL POWERS AND DUTIES.--

11 A. The department shall:

12 (1) investigate, study, consider and act upon
13 the entire subject of Hispanic affairs within New Mexico,
14 including problems of health, economy and education and the
15 effect of local, state and federal legislative, executive and
16 judicial actions. The department shall collaborate with other
17 state departments and agencies that have an interest or stake
18 in the subject being investigated, studied or considered. In
19 performing its functions, the department shall provide an
20 opportunity for the presentation and exchange of ideas with
21 respect to Hispanic affairs of the state by all interested
22 persons; and

23 (2) assist in setting the policy, and act as
24 the clearinghouse, for all state programs affecting Hispanics
25 of New Mexico.

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1 B. The department may:

2 (1) hold hearings, conduct meetings, make
3 investigations and confer with officials of local, state and
4 federal agencies to secure cooperation between the local,
5 state, federal and Native American tribal governments in the
6 promotion of the welfare of Hispanics of New Mexico;

7 (2) contract with tribal governments, public
8 agencies or private persons to provide services and facilities
9 for promoting the welfare of Hispanics of New Mexico; and

10 (3) solicit and accept gifts, grants,
11 donations, bequests and devises.

12 Section 8. ORGANIZATIONAL UNITS OF THE DEPARTMENT--POWERS
13 AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

14 A. Those organizational units of the department and
15 the officers of those units specified by law shall have all of
16 the powers and duties enumerated in the specific laws involved.
17 However, the carrying out of those powers and duties shall be
18 subject to the direction and supervision of the secretary, who
19 shall retain the final decision-making authority and
20 responsibility for the administration of any such laws.

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

24 Section 9. DIVISION DIRECTORS.--Except as otherwise
25 provided by law, the secretary shall appoint, with the approval

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1 of the governor, directors of divisions established within the
2 department. The directors so appointed are exempt from the
3 Personnel Act.

4 Section 10. BUREAU CHIEFS.--The secretary may establish
5 within each division such bureaus as the secretary deems
6 necessary to carry out the provisions of the Hispanic Affairs
7 Department Act. The secretary shall appoint a chief to be the
8 administrative head of a bureau. A chief and all subsidiary
9 employees of the department are covered by the Personnel Act
10 unless otherwise provided by law.

11 Section 11. ADMINISTRATIVE SERVICES DIVISION--DUTIES.--
12 The administrative services division of the department shall
13 provide administrative services to the department, including:

14 A. keeping all official records of the department;

15 B. providing clerical services in the areas of
16 personnel and budget preparation; and

17 C. providing clerical, recordkeeping and
18 administrative support to agencies administratively attached to
19 the department, at their request.

20 Section 12. PROGRAM SERVICES DIVISION--DUTIES.--The
21 program services division of the department shall provide
22 program implementation and support for field programs and
23 services.

24 Section 13. HISPANIC AFFAIRS COMMISSION CREATED.--

25 A. The "Hispanic affairs commission" is created.

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1 The commission consists of ten members who are residents of New
2 Mexico appointed by the governor as follows:

3 (1) two members who are members of the Hispano
4 round table of New Mexico;

5 (2) two members who are members of the league
6 of united Latin American citizens;

7 (3) two members who are members of the
8 Hispanic chamber of commerce;

9 (4) one member who is a member of the Mexican
10 American legal defense and educational fund;

11 (5) one member who is a member of the national
12 Hispanic cultural center foundation;

13 (6) one member who is a member of the American
14 civil liberties union; and

15 (7) one member who is non-Hispanic.

16 B. Members who represent organizations shall be
17 appointed by the governor from lists of three names submitted
18 by each of the organizations represented.

19 C. Members shall serve four-year terms. A vacancy
20 shall be filled by appointment by the governor in the same
21 manner as the original appointment for the unexpired term of
22 the vacating member.

23 D. The commission shall elect a chair and such
24 other officers as it deems necessary.

25 E. Members are entitled to receive per diem and

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1 mileage pursuant to the Per Diem and Mileage Act, but shall
2 receive no other compensation, perquisite or allowance.

3 Section 14. DUTIES OF THE COMMISSION.--The Hispanic
4 affairs commission shall:

5 A. conduct meetings to provide an opportunity for
6 the presentation and exchange of ideas with respect to Hispanic
7 affairs by any interested party that result in the promotion of
8 the welfare of Hispanics in New Mexico;

9 B. receive and disseminate information on issues
10 that significantly impact the welfare of Hispanics in New
11 Mexico; and

12 C. advise the secretary on policy matters related
13 to the department's powers and duties.

14 Section 15. APPROPRIATION.--Seven hundred thousand
15 dollars (\$700,000) is appropriated from the general fund to the
16 department of finance and administration for expenditure in
17 fiscal year 2010 to pay expenses of establishing the Hispanic
18 affairs department. Any unexpended or unencumbered balance
19 remaining at the end of fiscal year 2010 shall revert to the
20 general fund.