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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO GOVERNMENTAL ACCESSIBILITY; REQUIRING ALL STATE DEPARTMENTS TO PROVIDE FULL ACCESS TO STATE PROGRAMS FOR INDIVIDUALS WITH LIMITED PROFICIENCY IN ENGLISH.

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

SECTION 1. Section 9-1-5 NMSA 1978 (being Laws 1977, Chapter 248, Section 5, as amended) is amended to read:

"9-1-5. 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

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1 granted to the secretary or the department or any division of
2 the department, except where authority conferred upon any
3 division is explicitly exempted from the secretary's authority
4 by statute. In accordance with these provisions, the secretary
5 shall:

6 (1) except as otherwise provided in the
7 Executive Reorganization Act, exercise general supervisory and
8 appointing authority over all department employees, subject to
9 any applicable personnel laws and regulations;

10 (2) delegate authority to subordinates as the
11 secretary deems necessary and appropriate, clearly delineating
12 such delegated authority and the limitations thereto;

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

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

21 (5) take administrative action by issuing
22 orders and instructions, not inconsistent with the law, to
23 assure implementation of and compliance with the provisions of
24 law for whose administration or execution the secretary is
25 responsible and to enforce those orders and instructions by

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1 appropriate administrative action or actions in the courts;

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

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

10 (8) prepare an annual budget of the
11 department;

12 (9) provide cooperation, at the request of
13 heads of administratively attached agencies and adjunct
14 agencies, in order to:

15 (a) minimize or eliminate duplication of
16 services and jurisdictional conflicts;

17 (b) coordinate activities and resolve
18 problems of mutual concern; and

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

23 (10) implement, as much as legally
24 permissible, the strategic plan developed by the sustainable
25 economy task force as provided in Section ~~[2 of this 2021 act]~~

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1 9-15-59 NMSA 1978;

2 (11) develop and implement a departmental plan
3 to provide full access to state programs for individuals with
4 limited English proficiency that includes:

5 (a) an annual public assessment,
6 submitted to the governor, that details the need for
7 departmental services to improve access for individuals with
8 limited English proficiency;

9 (b) the department's plan to meet the
10 needs identified in the assessment, including interpretation
11 and translation services and bilingual staffing;

12 (c) the cost, including competitive
13 salary structures for employees with multilingual
14 proficiencies, to implement the departmental plan to provide
15 full language access to state programs; and

16 (d) submission of an annual report to
17 the governor and the legislative finance committee regarding
18 the implementation of the department's language access plan;
19 provided that the legislative finance committee and the
20 department of finance and administration shall not grant budget
21 adjustment request authority to a department that does not
22 submit an annual report to the governor and the legislative
23 finance committee;

24 ~~(11)~~ (12) appoint, with the governor's
25 consent, a "director" for each division. These appointed

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1 positions are exempt from the provisions of the Personnel Act.
2 Persons appointed to these positions shall serve at the
3 pleasure of the secretary;

4 [~~(12)~~] (13) give bond in the penal sum of
5 twenty-five thousand dollars (\$25,000) and require directors to
6 each give bond in the penal sum of ten thousand dollars
7 (\$10,000) conditioned upon the faithful performance of duties,
8 as provided in the Surety Bond Act. The department shall pay
9 the costs of these bonds; and

10 [~~(13)~~] (14) require performance bonds of such
11 department employees and officers as the secretary deems
12 necessary, as provided in the Surety Bond Act. The department
13 shall pay the costs of these bonds.

14 C. The secretary may apply for and receive, with
15 the governor's approval, in the name of the department any
16 public or private funds, including [~~but not limited to~~] United
17 States government funds, available to the department to carry
18 out its programs, duties or services.

19 D. Where functions of departments overlap or a
20 function assigned to one department could better be performed
21 by another department, a secretary may recommend appropriate
22 legislation to the next session of the legislature for its
23 approval.

24 E. The secretary may make and adopt such reasonable
25 procedural rules as may be necessary to carry out the duties of

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1 the department and its divisions. No rule promulgated by the
2 director of any division in carrying out the functions and
3 duties of the division shall be effective until approved by the
4 secretary unless otherwise provided by statute. Unless
5 otherwise provided by statute, no rule affecting any person or
6 agency outside the department shall be adopted, amended or
7 repealed without a public hearing on the proposed action before
8 the secretary or a hearing officer designated by the secretary.
9 The public hearing shall be held in Santa Fe unless otherwise
10 permitted by statute. Notice of the subject matter of the
11 rule, the action proposed to be taken, the time and place of
12 the hearing, the manner in which interested persons may present
13 their views and the method by which copies of the proposed rule
14 or proposed amendment or repeal of an existing rule may be
15 obtained shall be published once at least thirty days prior to
16 the hearing date in a newspaper of general circulation and
17 mailed at least thirty days prior to the hearing date to all
18 persons who have made a written request for advance notice of
19 hearing. All rules shall be filed in accordance with the State
20 Rules Act.

21 F. If this section conflicts with the powers and
22 duties specifically given by statute to a particular secretary,
23 the specific powers and duties shall control. If this section
24 conflicts with other statutes specifically limiting the powers
25 of a secretary, the specific limitations shall control."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.