

1 SENATE BILL 345

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

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

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
17 cited as the "Hispanic Affairs Department Act".

18 SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the
19 Hispanic Affairs Department Act is to create a single, unified
20 department to administer laws and exercise functions that will
21 enable the executive branch to achieve a coordinated and
22 effective system dedicated to improving educational achievement
23 gaps and health care and other access to state programs and
24 reducing poverty rates among Hispanics in New Mexico.

25 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the

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1 Hispanic Affairs 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. [NEW MATERIAL] DEPARTMENT CREATED.--The
7 "Hispanic affairs department" is created as a cabinet
8 department in the executive branch. The department includes
9 the following divisions:

10 A. the administrative services division; and

11 B. the program services division.

12 SECTION 5. [NEW MATERIAL] SECRETARY OF HISPANIC
13 AFFAIRS.--

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

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

24 SECTION 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
25 POWERS.--

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

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

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

17 (2) delegate authority to subordinates as
18 necessary and appropriate, clearly delineating such delegated
19 authority and the limitations thereto;

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

24 (4) within the limitations of available
25 appropriations and applicable laws, employ and fix the

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1 compensation of those persons necessary to discharge the
2 secretary's duties;

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

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

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

17 (8) prepare an annual budget of the
18 department;

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

21 (a) minimize or eliminate duplication of
22 services;

23 (b) coordinate activities and resolve
24 problems of mutual concern; and

25 (c) resolve by agreement the manner and

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1 extent to which the department shall provide budgeting, record
2 keeping and related clerical assistance to administratively
3 attached agencies; and

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

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

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

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

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1 designated by the secretary. The public hearing shall be held
2 in Santa Fe unless otherwise permitted by statute. Notice of
3 the subject matter of the rule, the action proposed to be
4 taken, the time and place of the hearing, the manner in which
5 interested persons may present their views and the method by
6 which copies of the proposed rule, proposed amendment or repeal
7 of an existing rule may be obtained shall be published once at
8 least thirty days prior to the hearing date in a newspaper of
9 general circulation and mailed at least thirty days prior to
10 the hearing date to all persons who have made a written request
11 for advance notice of hearing. All rules shall be filed in
12 accordance with the State Rules Act.

13 SECTION 7. [NEW MATERIAL] DEPARTMENT--ADDITIONAL POWERS
14 AND DUTIES.--

15 A. The department shall:

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

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1 persons;

2 (2) assist in setting the policy and act as
3 the clearinghouse for all state programs affecting Hispanics of
4 New Mexico;

5 (3) focus on the *Hispanic Statement of*
6 *Cooperation* agreement entered into by the Hispano round table
7 of New Mexico and thirty-one other signatories to improve
8 education, employment, business opportunities and cultural
9 awareness and celebration in New Mexico and extend those
10 efforts statewide;

11 (4) pay particular attention to lawsuits
12 against the state or political subdivisions such as
13 *Yazzie/Martinez v. State of New Mexico* and *Carbajal v.*
14 *Albuquerque Public School District* and the efforts of the state
15 and political subdivisions to comply with court orders and
16 offer assistance to other state agencies or political
17 subdivisions in complying; and

18 (5) work with governments, military
19 installations, businesses and industries to develop diversity
20 action plans and improve employee diversity in every field of
21 economic endeavor.

22 B. The department may:

23 (1) hold hearings, conduct meetings, make
24 investigations and confer with officials of local, state and
25 federal agencies to secure cooperation among the local, state,

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1 federal and Native American tribal governments in the promotion
2 of the welfare of Hispanics of New Mexico;

3 (2) contract with public agencies, tribal
4 governments and private persons to provide services and
5 facilities for promoting the welfare of Hispanics of New
6 Mexico; and

7 (3) do all things right and proper to expand
8 education, economic, cultural and other opportunities for the
9 largest minority group in New Mexico and the nation.

10 SECTION 8. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
11 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
12 INFORMATION.--

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

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

23 SECTION 9. [NEW MATERIAL] DIVISION DIRECTORS.--Except as
24 otherwise provided by law, the secretary shall appoint, with
25 the approval of the governor, directors of divisions

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1 established within the department. The directors so appointed
2 are exempt from the Personnel Act.

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

10 SECTION 11. [NEW MATERIAL] ADMINISTRATIVE SERVICES
11 DIVISION--DUTIES.--The administrative services division of the
12 department shall provide administrative services to the
13 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 the Hispanic affairs commission and
19 other agencies administratively attached to the department, at
20 their request.

21 SECTION 12. [NEW MATERIAL] PROGRAM SERVICES DIVISION--
22 DUTIES.--The program services division of the department shall
23 provide program implementation and support for field programs
24 and services.

25 SECTION 13. [NEW MATERIAL] HISPANIC AFFAIRS COMMISSION

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1 CREATED.--

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

3 The commission consists of eleven members who are residents of
4 New Mexico appointed by the governor as follows:

5 (1) two members who are members of the Hispano
6 round table of New Mexico;

7 (2) two members who are members of the league
8 of united Latin American citizens;

9 (3) two members who are members of a Hispanic
10 chamber of commerce;

11 (4) one member who is a member of the Mexican
12 American legal defense and education fund;

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

15 (6) one member who is a member of the American
16 civil liberties union;

17 (7) one member who is a member of the Mexican
18 American women's national association; and

19 (8) one member who is non-Hispanic.

20 B. Members who represent organizations shall be
21 appointed by the governor from lists of three names submitted
22 by each of the organizations represented.

23 C. Members shall serve four-year terms. A vacancy
24 shall be filled by appointment by the governor in the same
25 manner as the original appointment for the unexpired term of

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1 the vacating member.

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

4 E. Members are entitled to receive per diem and
5 mileage pursuant to the Per Diem and Mileage Act, but shall
6 receive no other compensation, perquisite or allowance.

7 SECTION 14. [NEW MATERIAL] DUTIES OF THE COMMISSION.--The
8 Hispanic affairs commission shall:

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

13 B. receive and disseminate information on issues
14 that significantly impact the welfare of Hispanics in New
15 Mexico; and

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

18 SECTION 15. APPROPRIATION.--Seven hundred thousand
19 dollars (\$700,000) is appropriated from the general fund to the
20 department of finance and administration for expenditure in
21 fiscal year 2020 to pay expenses of establishing the Hispanic
22 affairs department. Any unexpended or unencumbered balance
23 remaining at the end of fiscal year 2020 shall revert to the
24 general fund.

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